FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 4353

DATE FILMED 12-16-97 CAMERA NO. 8

CAMERAMAN [illegible]

9704385075 4

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MAY 2 2 45 PM '96

BROSE FOR CONGRESS

Send Washington a Message - not a Politician!

MUR 4353

April 19, 1996

General Counsel
Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463

Gentlemen:

Enclosed please find three copies of a complaint filed pursuant to 11 CFR §111.4. I am also enclosing copies of Mr. Kilbanks' Financial Disclosure Report filed with the U.S. House of Representatives and copies of a relevant newspaper article.

I cannot include copies of his political committee's campaign finance reports because I do not possess them.

Sincerely,

James F. Brose

Enclosure

9704385075 5

1101 Northampton Street
Easton, PA 18042
Internet Homepage
http://silo.com/services/jfbrose.htm

(610) 258-2374
(610) 258-8363 *fax*

April 19, 1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MAY 2 2 46 PM '96

General Counsel
Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463

Name of Complainant:
James Frederick Brose
17 Boileau Avenue
Easton, PA 18042

Name of Respondents:
Robert D. Kilbanks, Candidate
Friends of Bob Kilbanks

COMPLAINT PURSUANT TO 2 U.S.C 437g AND 11 CFR § 111.4

1. Upon information and belief, Robert D. Kilbanks is a candidate for the U.S. House of Representatives in Pennsylvania's 15th Congressional District.

2. Upon information and belief, Friends of Bob Kilbanks is a political committee with an address of P.O. Box 707, Bethlehem, Pennsylvania 18016, whose treasurer is Chris Miller.

3. Upon information and belief, in compliance with Federal Election Commission ("FEC") campaign finance reporting regulations, Respondents filed a Pre-Primary report for the period covering January 1, 1996 until April 3, 1996.

3. Upon information and belief, the recent report indicates that since January 1, 1996 Mr. Kilbanks has contributed $37,700 to his campaign together with a loan from himself to the campaign of $10,000.

4. According to a financial disclosure statement filed on

97043850756

September 22, 1995 with the U.S. House of Representatives, Mr. Kilbanks reported that he had earned $39,479 in the 20 months previous to filing. The report also showed assets of a rental property worth between $100,000 and $250,000, which generated income of $1,000 to $2,500 in the year of filing, and a checking account with between $1,000 and $15,000 in deposits, which generated between $1 and $200 in the year of filing and in the preceding year.

5. According to an article published by The Morning Call newspaper on April 10, 1996, when questioned about how he was able to contribute $47,700 to his campaign, Mr. Kilbanks said the bulk of the money - about $40,000 - was given to him by his mother after January 1, 1996.

6. Upon information and belief, campaign finance reports indicate Mr. Kilbanks' mother had already contributed $1,000 to Mr. Kilbanks' campaign in 1995.

7. 11 CFR 110.1(b)(1) states:

> No person shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office which, in the aggregate, exceed $1,000.

8. 2 U.S.C.A. § 431(8)(A)(i) defines the term contribution to include the following: "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."

9. According to an article published by The Morning Call newspaper on April 10, 1996, Mr. Kilbanks contends that the

9704385057

$40,000 given to him by his mother in 1996, which he used to fund his campaign, were "personal funds" because they were a gift of a personal nature which had been customarily given to him prior to his candidacy.

10. According to a report published in The Morning Call on April 10, 1996, Mr. Kilbanks' mother said that she first gave him such a gift in 1993 believing he might use it for his campaign.

11. Based on personal knowledge, Mr. Kilbanks has refused to provide proof of any gifts his mother has given to him in the past, insisting he will do so only under the direction of the Federal Election Commission.

12. Upon information and belief, Mr. Kilbanks has violated 11 CFR §110.10 by spending $40,000 on his campaign which were not "personal funds".

13. Upon information and belief, Mr. Kilbanks and Friends of Bob Kilbanks violated 11 CFR §110.09(a) by accepting a contribution and making an expenditure in violation of the provisions of 11 CFR part 110; to wit they received approximately $40,000 from Mr. Kilbanks' mother, which exceeds the $1000 limit, and they expended such funds in the campaign.

James F. Brose

Sworn to and Subscribed
before me this 19th day
of April, 1996.

Deborah A. Falcone
Notary Public

NOTARTIAL SEAL
DEBORAH A. FALCONE, Notary Public
Easton, Northampton Co., PA
My Commission Expires March 2, 1998

9704385075 58

4/10/96

Kilbanks defends cash gift

He said his mom's $40,000 present, which he gave to his campaign for the 15th Congressional District seat, is acceptable under U.S. rules.

By JOHN P. MARTIN
Of The Morning Call

Around this time two years ago, Bob Kilbanks had spent less than $710 on his bid for the Republican nomination to the 15th Congressional District and was calling for the end to expensive campaigns.

Yesterday, Kilbanks was defending his acceptance of about $40,000 in "gift money" he received from his mother in recent months and poured into his second campaign for the seat.

At issue is a federal regulation that limits the circumstances under which a candidate may transfer a relative's money into personal campaign funds.

"We're completely confident we're compliant with the code," Kilbanks said yesterday.

The contributions emerged in finance reports Kilbanks filed this week with the Federal Election Commission. The reports show Kilbanks has donated more than $97,700 and lent an additional $10,000 to his campaign, despite earning just $89,000 in the 20 months before he launched his candidacy in September.

Kilbanks said yesterday that the bulk of the money — about $40,000 — was given to him by his mother, Jacqueline Kilbanks of Easton.

Please See KILBANKS Page A12 ▶

9704385075 9

KILBANKS

▶Continued From Page A1

The FEC prohibits candidates from accepting individual contributions of more than $1,000 — even from relatives — but sets no ceiling on the personal funds a candidate may spend. Such funds typically refer to income and investments, but may also include "gifts of a personal nature which had been customarily received prior to candidacy."

Both Kilbanks and his mother said she gave him similar amounts of about $40,000 in the previous three years and therefore the contributions were acceptable as customary gifts.

The FEC has never clearly defined "customary gifts." In 1988, the commission ruled that a $20,000 payment to one candidate from his parents was permissible because he had received similar gifts for several years "without regard to [the candidate's] possible candidacy for federal office."

In other instances, federal courts have levied fines against candidates for violating the code.

Kilbanks declined yesterday to provide proof of the gifts his mother has given him in previous years, saying he would do so only if he were asked by FEC officials.

His mother said that, when she first gave him such a gift in 1983, she did so believing he might use it for his campaign.

"Maybe in the back of my mind I probably had that thought," Jacqueline Kilbanks, who contributed $1,000 to her son's campaign last summer, said yesterday from the Easton home they share.

It's clear, however, that Kilbanks did not use such a sum on his first campaign. By his own account, he spent only $2,000 on his unsuccessful primary bid in 1994 and never formed a campaign committee.

And when he filed financial disclosure forms with the House of Representatives in September, the only assets he reported were a rental home in Stroudsburg and a bank account containing between $1,000 and $15,000.

Campaign manager Steve Finney said yesterday the campaign had contacted the FEC and was confident that the contributions, approved by the campaign solicitor, were legal.

FEC spokesman Ian Stirton said yesterday he could not discuss specific races.

The question of the contributions clearly was unsettling for the real estate agent who has hyped his campaign as a grass-roots effort built not on money but volunteers and hard work. By contrast, he has portrayed the campaign of GOP favorite Ken Smith, Bethlehem's mayor, as one dependent on the financial support of wealthy business executives.

In all, Kilbanks personally has accounted for 65 percent of the $75,000 in contributions logged by his campaign — by far the most of any contender in the race.

Easton attorney Jim Broas has contributed $6,100 of the $8,000 he has raised since the campaign opened. Edward Smith, also an Easton attorney, accounted for $1,000 of his $31,000.

Ken Smith tops all candidates with more than $150,000 in contributions, but none has come from the candidate himself. And Paul McHale, the incumbent Democrat, has lent his campaign money in the past but gave nothing during the most recent reporting period.

970438507600

9704385075

UNITED STATES HOUSE OF REPRESENTATIVES
FINANCIAL DISCLOSURE STATEMENT

Period Covered: January 1, 1995 - September 22, 1995

FORM B
For use by candidates and new employees

RECEIVED
OFFICE OF RECORDS & REGISTRATION
95 SEP 25 AM 10:07
OFFICE OF THE CLERK
U.S. HOUSE OF REPRESENTATIVES
SEP 22 1995
(Office Use Only)

4

Robert D. Kilbanks
(Full Name)

911 Northampton St.
(Mailing Address)

Easton, PA 18042
(Daytime Telephone)

Filer Status

[X] Candidate for the House of Representatives — State: PA — District: 15th — Date of Election: Apr., 23, 1996

[ ] New officer or employee — Employing Office: _____

Check if Amendment [ ]

A $200 penalty shall be assessed against anyone who files more than 30 days late.

In all sections, please type or print clearly in black ink.

PRELIMINARY INFORMATION -- ANSWER EACH OF THESE QUESTIONS

I. Did you or your spouse have "earned" income (e.g., salaries or fees) of $200 or more from any source in the reporting period? If yes, complete and attach Schedule I.	Yes [X]	No [ ]	IV. Did you hold any reportable positions on or before the date of filing in the current calendar year or in the prior two years? If yes, complete and attach Schedule IV.	Yes [X]	No [ ]
II. Did you, your spouse, or a dependent child receive "unearned" income of more than $200 in the reporting period or hold any reportable asset worth more than $1,000 at the end of the period? If yes, complete and attach Schedule II.	Yes [X]	No [ ]	V. Did you have any reportable agreement or arrangement with an outside entity? If yes, complete and attach Schedule V.	Yes [ ]	No [X]
III. Did you, your spouse, or a dependent child have any reportable liability (more than $10,000) during the reporting period? If yes, complete and attach Schedule III.	Yes [X]	No [ ]	VI. Did you receive compensation of more than $5,000 from a single source in the two prior years? If yes, complete and attach Schedule VI.	Yes [ ]	No [X]

Each question in this part must be answered and the appropriate schedule attached for each "Yes" response.

EXCLUSION OF SPOUSE, DEPENDENT, OR TRUST INFORMATION -- ANSWER EACH OF THESE QUESTIONS

TRUSTS—Details regarding "Qualified Blind Trusts" approved by the Committee on Standards of Official Conduct and certain other "excepted trusts" need not be disclosed. Have you excluded from this report details of such a trust benefiting you, your spouse, or a dependent child? (See Instructions, pages 10-11.)	Yes [ ]	No [X]
EXEMPTION—Have you excluded from this report any other assets, "unearned" income, transactions, or liabilities of a spouse or dependent child because they meet all three tests for exemption? (See Instructions, page 11.)	Yes [ ]	No [X]

CERTIFICATION -- THIS DOCUMENT MUST BE SIGNED BY THE REPORTING INDIVIDUAL AND DATED

This Financial Disclosure Statement is required by the Ethics in Government Act of 1978, as amended. The Statement will be available to any requesting person upon written application and will be reviewed by the Committee on Standards of Official Conduct or its designee. Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file this report may be subject to civil and criminal sanctions (See 5 U.S.C. app. 6, § 104 and 18 U.S.C. § 1001).

SIGNATURE OF REPORTING INDIVIDUAL: Robert D. Kilbanks

DATE (Month/Day/Year): September 22, 1995

Name Robert D. Kilbanks	Page 2 of 4

SCHEDULE I—EARNED INCOME (INCLUDING HONORARIA)

List the source, type, and amount of earned income, including honoraria, from any source (other than your current employment by the U.S. Government) totalling $200 or more during the current year to the filing date and, separately, the preceding calendar year. For a spouse, list the source and amount of any honoraria. List only the source for other spouse earned income exceeding $1,000. For further information, see instructions, pages 12-13.

Source (include date of receipt for honoraria)		Type	Amount	
			Current Year to Filing	Preceding Year
Examples:	XYZ Corporation, Houston, Texas	Salary	$6,300	$28,450
	First Bank & Trust, Houston, Texas	Director's Fee	$400	$3,200
	XYZ Trade Association, Chicago, IL. (Rec'd 12-2-84)	Honorarium	0	$1,000
	Hyde County, Texas, Public Schools	Spouse Salary	NA	NA
	Kilbanks Co., Realtors	fees and commissions	$29,500	$8,590
	Camelback Ski Corporation	instructor wage	$ 584	$ 805

This page may be copied if more space is required.

9704385076 2

Name Robert D. Kilbanks | Page 3 of 4

SCHEDULE II — ASSETS AND "UNEARNED" INCOME

BLOCK A — Asset and/or Income Source

Identify (a) each asset held for investment or production of income with a fair market value exceeding $1,000 at the end of the reporting period, and (b) any other asset or source of income which generated more than $200 in "unearned" income during the period. For rental property or land, provide an address. Provide full names of any mutual funds. For an IRA or retirement plan that is *self-directed*, list the underlying assets worth more than $1,000. For an IRA or retirement plan that is *not* self-directed, name the institution holding the account.

Exclude: Your personal residence(s) (unless there is rental income); any debt owed to you by your spouse, or by your or your spouse's child, parent, or sibling; any deposits totalling $5,000 or less in personal savings accounts; any financial interests in or income derived from U.S. Government retirement programs.

If you so choose, you may indicate that an asset or income source is that of your spouse (SP) or dependent child (DC) or is jointly held (JT). In the optional column on the far left.

For further information, see Instructions, pages 14–20.

BLOCK B — Value of Asset

at close of reporting period. If you use a valuation method other than fair market value, please specify the method used. If an asset was sold and is included only because it generated income, the value should be "None."

BLOCK C — Type of Income

If other than one of the listed categories, specify the type of income by writing a brief description in this block.

BLOCK D — Amount of Income

For IRA's and retirement plans that are *not* self-directed, you may write in "NA" for income.

			Block A	Block B									Block C							Block D																					
																				Current Year										Preceding Year													
				A	B	C	D	E	F	G	H									I	II	III	IV	V	VI	VII	VIII	IX		I	II	III	IV	V	VI	VII	VIII	IX				
				None	$1 – $1,000	$1,001 – $15,000	$15,001 – $50,000	$50,001 – $100,000	$100,001 – $250,000	$250,001 – $500,000	$500,001 – $1,000,000	Over $1,000,000	DIVIDENDS	RENT	INTEREST	CAPITAL GAINS	EXCEPTED TRUST	QUALIFIED BLIND TRUST		None	$1 – $200	$201 – $1,000	$1,001 – $2,500	$2,501 – $5,000	$5,001 – $15,000	$15,001 – $50,000	$50,001 – $100,000	$100,001 – $1,000,000	Over $1,000,000		None	$1 – $200	$201 – $1,000	$1,001 – $2,500	$2,501 – $5,000	$5,001 – $15,000	$15,001 – $50,000	$50,001 – $100,000	$100,001 – $1,000,000	Over $1,000,000	
SP, DC, JT	Examples:	SP	Mega Corp. Stock			X							X									X																			
			123 Main St., Dover, Del.						X					X										X											X							
			1st Bank of Peoria, IL accounts				X								X							X										X									
	2486 Fawn Rd. East Stroudsburg, PA rental							X					X									X												X							
	First Fidelity Bank account North Brunswick, NJ				X									X						X										X										

For additional assets and unearned income, use next page.

9704385076 3

Name Robert D. Kilbanks | Page 4 of 4

SCHEDULE III—LIABILITIES

Report liabilities of over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent child. Mark the highest amount owed during the reporting period. Exclude: Any mortgage on your personal residence (unless there is rental income); loans secured by automobiles, household furniture, or appliances; and liabilities owed to a spouse, or the child, parent, or sibling of you or your spouse. Report revolving charge accounts only if the balance at the end of the reporting period exceeded $10,000. For further information, see Instructions, pages 21-22.

Sp./DC	Creditor	Type of Liability	Amount of Liability B $10,001 - $15,000	C $15,001 - $50,000	D $50,001 - $100,000	E $100,001 - $250,000	F $250,001 - $500,000	G $500,001 - $1,000,000	H Over $1,000,000
	Example: First Bank of Wilmington, Delaware	Mortgage on 123 Main Street, Dover, Del.				X			
	Centerbank Mortgage Co., Waterbury CT	mortgage on 2486 Fawn Road rental			X				

SCHEDULE IV—POSITIONS

Report all positions, compensated or uncompensated, held on or before the date of filing during the current calendar year and in the two prior years as an officer, director, trustee of an organization, partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. For further information, see Instructions, pages 25-26.

Exclude: Positions held in any religious, social, fraternal, or political entities; positions solely of an honorary nature; and positions listed on Schedule I.

Position	Name of Organization
President	Kilbanks Co.
Trustee	Help-A-Child Worldwide, Inc.

Use additional sheets if more space is required.

9704385076

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
MAY 6 10 24 AM '96

LAW OFFICES
BROSE, POSWISTILO & ELLIOTT
1101 BUILDING
11TH & NORTHAMPTON STREETS
EASTON, PENNSYLVANIA
18042

E. JEROME BROSE
FRANK S. POSWISTILO
THOMAS R. ELLIOTT, JR.

JAMES F. BROSE
(MEMBER, PA AND NY BARS)

TELEPHONE
(610) 258-2374

TELEX 847461

TELECOPIER
(610) 258-6363

May 2, 1996

Office of General Counsel
Federal Election Commission
Room 657
999 East Street, N.W.
Washington, D.C. 20463

Re: Robert D. Kilbanks

Gentlemen:

Enclosed please find an original, amended complaint. On April 19, 1996 we mailed an original complaint in this matter which we were informed today has not been received by your office. Therefore, we are sending this complaint involving the identical parties and the same facts, but we have taken this opportunity to make two slight changes. In the event you locate or receive the original kindly replace it with the enclosed.

Sincerely,

James F. Brose

JFB/df
Enclosure

97043850765

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
MAY 6 10 47 AM '96

May 2, 1996

General Counsel
Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463

Name of Complainant:
James Frederick Brose
17 Boileau Avenue
Easton, PA 18042

Name of Respondents:
Robert D. Kilbanks, Candidate
Friends of Bob Kilbanks

COMPLAINT PURSUANT TO 2 U.S.C 437g AND 11 CFR S 111.4

1. Upon information and belief, Robert D. Kilbanks is a candidate for the U.S. House of Representatives in Pennsylvania's 15th Congressional District for election in 1996. He also ran for this office in 1994.

2. Upon information and belief, Friends of Bob Kilbanks is a political committee with an address of P.O. Box 707, Bethlehem, Pennsylvania 18016, whose treasurer is Chris Miller.

3. Upon information and belief, in compliance with Federal Election Commission ("FEC") campaign finance reporting regulations, Respondents filed a Pre-Primary report for the period covering January 1, 1996 until April 3, 1996.

3. Upon information and belief, the recent report indicates that since January 1, 1996 Mr. Kilbanks has contributed $37,700 to his campaign together with a loan from himself to the campaign of $10,000.

4. According to a financial disclosure statement filed on September 22, 1995 with the U.S. House of Representatives, Mr.

9704385076

Kilbanks reported that he had earned $39,479 in the 20 months previous to filing. The report also showed assets of a rental property worth between $100,000 and $250,000, which generated income of $1,000 to $2,500 in the year of filing, and a checking account with between $1,000 and $15,000 in deposits, which generated between $1 and $200 in the year of filing and in the preceding year.

5. According to an article published by The Morning Call newspaper on April 10, 1996, when questioned about how he was able to contribute $47,700 to his campaign, Mr. Kilbanks said the bulk of the money - about $40,000 - was given to him by his mother after January 1, 1996.

6. Upon information and belief, campaign finance reports indicate Mr. Kilbanks' mother had already contributed $1,000 to Mr. Kilbanks' campaign in 1995.

7. 11 CFR 110.1(b)(1) states:

> No person shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office which, in the aggregate, exceed $1,000.

8. 2 U.S.C.A. § 431(8)(A)(i) defines the term contribution to include the following: "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."

9. According to an article published by The Morning Call newspaper on April 10, 1996, Mr. Kilbanks contends that the $40,000 given to him by his mother in 1996, which he used to fund

9704385076 7

his campaign, were "personal funds" because they were a gift of a personal nature which had been customarily given to him prior to his candidacy.

10. According to a report published in The Morning Call on April 10, 1996, Mr. Kilbanks' mother said that she first gave him such a gift in 1993 believing he might use it for his campaign in 1994.

11. Based on personal knowledge, Mr. Kilbanks has refused to provide proof of any gifts his mother has given to him in the past, insisting he will do so only under the direction of the Federal Election Commission.

12. Upon information and belief, Mr. Kilbanks has violated 11 CFR §110.10 by spending $40,000 on his campaign which were not "personal funds".

13. Upon information and belief, Mr. Kilbanks and Friends of Bob Kilbanks violated 11 CFR §110.09(a) by accepting a contribution and making an expenditure in violation of the provisions of 11 CFR part 110; to wit they received approximately $40,000 from Mr. Kilbanks' mother, which exceeds the $1000 limit, and they expended such funds in the campaign.

James F. Brose

Sworn to and Subscribed
before me this 2 day
of May, 1996.

Deborah A. Falcone
Notary Public

NOTARTIAL SEAL
DEBORAH A. FALCONE, Notary Public
Easton, Northampton Co., PA
My Commission Expires March 2, 1998

9704385076 8

FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 7, 1996

James Frederick Brose
17 Boileau Avenue
Easton, PA 18042

RE: MUR 4353

Dear Mr. Brose:

This letter acknowledges receipt on May 2, 1996, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4353. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

9704385076 9

FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 7, 1998

Robert D. Kilbanks
911 Northampton Street
Easton, PA 18042

RE: MUR 4353

Dear Mr. Kilbanks:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4353. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9704385077 0

If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9704385077 1

FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 7, 1998

Jacqueline Kilbanks
911 Northampton Street
Easton, PA 18042

RE: MUR 4353

Dear Ms. Kilbanks:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4353. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9704385072

If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9704385077 3

FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 7, 1998

Chris M. Miller, Treasurer
Friends of Bob Kilbanks
P.O. Box 707
Bethlehem, PA 18016

RE: MUR 4353

Dear Mr. Miller:

The Federal Election Commission received a complaint which indicates that Friends of Bob Kilbanks ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4353. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9704385077 4

If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

97043850775

Law Offices of
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, PA 18045
(610) 258-7809

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
MAY 20 12 20 PM '96

Colleen T. Sealander, Esquire
Central Enforcement Docket
Office of the General Counsel
Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463

May 14, 1996

Re: MUR 4353

Dear Attorney Sealander:

I am in receipt of your letter, with enclosures, dated May 7, 1996 and addressed to Chris M. Miller, Jacqueline Kilbanks and Bob Kilbanks in regards to the above referenced action. In accordance with 11 C.F.R. § 111.6(a) I would like to respond, on behalf of all of the above individuals as well as the Kilbanks Campaign, to the accusations and allegations which have been raised by James Brose.

A review of the complaint(s) filed by Mr. Brose instantly reveals various flaws with the premise and allegations of the complaint. A fundamental flaw with the complaint is that it relies, almost exclusively, upon hearsay evidence which, as you know, is the least credible evidence imaginable. Additionally; in dealing with the Press, you realize the tremendous liberties which the Press takes with regards to any quote which is printed in their stories. Accordingly, I would suggest that Newspaper articles and the quotes they contain are substantially less reliable than ordinary hearsay evidence. Even worse; Mr. Brose relies solely upon the Newspaper Reporter's interpretation of the Code of Federal Regulations and he further relies upon the articles for all of the factual basis of his complaint.

The origin of this alleged violation is essentially the crux of this problem. This alleged violation was raised by an overzealous reporter attempting to discover the "Watergate" of the 15th District. The Press reported that Bob Kilbanks had indicated, in his 1995 House Ethics Committee financial disclosure statement, that his (Bob's) earned income for the previous twenty (20) months had been approximately $40,000.00. Additionally; Bob had indicated, on the disclosure statement, that his savings were in the 0 to $15,000.00 range. Accordingly, the Press wanted to know how Bob was able to contribute approximately $40,000.00 to his campaign. Bob voluntarily and willingly advised the Press that he has customarily received gifts from his mother which he chose to contribute to his campaign. A Reporter interpreted a layman's handbook on the Code of Federal Regulations and determined, despite Bob's assurances that I, the campaign Solicitor, had determined that the contributions were legal, that Bob had violated the code. The Reporter ran a story before he could confirm his interpretation with the F.E.C. Additionally, despite numerous request from Mr. Kilbanks and his campaign, the Reporter refused to contact me, as Solicitor, for an accurate interpretation of the code.

2704385077 6

The major problems with the Reporter's interpretation are as follows:

1. His interpretation completely overlooks 11 C.F.R. § 110.10(b)(2) which permits a candidate for Federal office to make unlimited expenditures from personal funds. Personal funds is defined (under section (b)(2)) to include ***"gifts of a personal nature which have been customarily received prior to candidacy"***.

2. He, the Reporter, incorrectly assumes that Bob's personal earned income has not increased beyond the figures that were reported in the 1995 disclosure statement. I enclose the most recent disclosure statement which clearly demonstrates Bob's increased earnings.

The relevant facts pertaining to the ***"customary gifts"*** are as follows:

Mrs. Kilbanks (Bob's mother) has established, with significant help from Bob, as Executor of his father's estate, a sizable estate. Mrs. Kilbanks, acting on the advise of financial advisors, began divesting her estate by gifting substantial amounts, as far back as 1991, to reduce future estate and/or inheritance taxes. Over the years Mrs. Kilbanks has adjusted the amount of the gifts after she became satisfied that she would have enough assets to provide for her for the rest of her life, to account for her age and to have the opportunity to experience the effects of these gifts while living (i.e. utilizing the $600,000.00 estate exemption during her life). Any indication in Mr. Brose's complaint, the Newspaper or otherwise that these gifts were initiated, in 1991, to finance Bob's 1996 Congressional Campaign are ludicrous and totally inaccurate.

Curiously, Mr. Brose neglects to provide a copy of the initial article which ran in the local papers regarding this issue (a copy of which I enclose for your review). This story clearly demonstrates the Reporter's error by his reference to the incorrect section of the code (i.e. 11 C.F.R. section 110.1(b)(1)). Furthermore: Mr. Brose attempts to mislead this tribunal by omitting the relevant section of the code from his complaint. Choosing instead to cite inappropriate and irrelevant sections although he has previously been advised, by me, of the relevant law.

Additionally, regarding all of the stories which ran in the local papers on this subject (copies of which I enclose for your review), I wish to advise that this campaign has not taken these allegations, in the papers or otherwise, lightly. In fact; this campaign has demanded that the various papers, which ran this story, print a full retraction and, additionally, run another story clarifying their error and citing the correct, applicable section of the code and/or that they provide the basis, which we would dispute, for their story. Once again; this campaign has been very frustrated and angered that these stories ran before the F.E.C. could be reached for comment and without any effort, on behalf of the publications, to contact me, the only person, as the Solicitor for this campaign, with knowledge of the facts, both legal and otherwise, on this issue. I also enclose copies of the correspondence that this campaign has sent to the two publications that ran stories on this issue as well as a copy of a half page advertisement that Bob ran to accurately detail the facts and law on this issue.

This campaign (specifically the campaign manager and/or myself) has been in constant contact with F.E.C. staff members, via the 800 toll-free line, regarding this issue, throughout this entire ordeal. These staff members have repeatedly assured us that this contribution is legal. We have also obtained advisory opinions (copy enclosed), from these staff members, which, once again, confirm the legality of this contribution. Further; a review of the various articles which I have provided will reveal that F.E.C. staff members have also indicated, when contacted by the local press, that the contribution

9704385077

would appear to be legal. Also, this campaign has discussed this issue with Henry G. Gossel, Esquire, General Legal Counsel with the N.R.C.C., and he has also confirmed our position. Accordingly; it is our position that this contribution is legal and there is no need for the commission to take further action on this complaint. In the alternative, I would also suggest that the commission take no further action on this complaint in compliance with 11 C.F.R. § 112.5 Reliance on Advisory Opinions.

In closing, I also wish to provide a copy of a letter which I, as Solicitor for this campaign, sent to the campaign of the Complainant informing him of his campaign's F.E.C. violations and demanding that the violations be remedied as soon as possible. I would suggest that a review of this letter along with the various articles that I have provided (which Mr. Brose conveniently failed to provide) will demonstrate the true motive behind Mr. Brose's complaint. I would suggest that Mr. Brose allegedly filed his initial complaint for the purely political reason of elevating his campaign through accusations and innuendo which he knew would obtain significant press coverage (curiously enough the F.E.C. never received the alleged initial complaint which was, supposedly, mailed on April 19, 1996). In fact, Mr. Brose held a press conference, to solely address the filing of his complaint, on April 22, 1996 less than sixteen hours before the polls opened on primary day. The second complaint was filed after Mr. Brose suffered a humiliating loss in the primary, after his campaign had received the letter from me advising of his campaign's violations and, most importantly, after yet another story (enclosed) ran questioning the character of Mr. Brose by alleging that he never actually filed the original complaint.

Should you have any additional questions please do not hesitate to call.

Very truly yours;

Jeffrey S. Smith, Esquire

cc: Friends of Bob Kilbanks
Chris M. Miller
Jacqueline Kilbanks
Bob Kilbanks

9704385078

UNITED STATES HOUSE OF REPRESENTATIVES
FINANCIAL DISCLOSURE STATEMENT

FORM B
For use by candidates and new employees

Period Covered: January 1, 1996 - May 15, 1996

Robert D. Kilbanks
(Full Name)

911 Northampton St.
(Mailing Address)

Easton, PA 18042
Daytime Telephone:

(Office Use Only)

Filer Status

[X] Candidate for the House of Representatives — State: PA, District: 15th, Date of Election: 11/5/96

[ ] New officer or employee — Employing Office:

Check if Amendment [ ]

A $200 penalty shall be assessed against anybody who files more than 30 days late.

In all sections, please type or print clearly in black ink.

PRELIMINARY INFORMATION — ANSWER EACH OF THESE QUESTIONS

I. Did you or your spouse have "earned" income (e.g., salaries or fees) of $200 or more from any source in the reporting period? If yes, complete and attach Schedule I.	Yes [X]	No [ ]	IV. Did you hold any reportable positions on or before the date of filing in the current calendar year or in the prior two years? If yes, complete and attach Schedule IV.	Yes [X]	No [ ]
II. Did you, your spouse, or a dependent child receive "unearned" income of more than $200 in the reporting period or hold any reportable asset worth more than $1,000 at the end of the period? If yes, complete and attach Schedule II.	Yes [X]	No [ ]	V. Did you have any reportable agreement or arrangement with an outside entity? If yes, complete and attach Schedule V.	Yes [ ]	No [X]
III. Did you, your spouse, or a dependent child have any reportable liability (more than $10,000) during the reporting period? If yes, complete and attach Schedule III.	Yes [X]	No [ ]	VI. Did you receive compensation of more than $5,000 from a single source in the two prior years? If yes, complete and attach Schedule VI.	Yes [ ]	No [X]

Each question in this part must be answered and the appropriate schedule attached for each "Yes" response.

EXCLUSION OF SPOUSE, DEPENDENT, OR TRUST INFORMATION — ANSWER EACH OF THESE QUESTIONS

TRUSTS—Details regarding "Qualified Blind Trusts" approved by the Committee on Standards of Official Conduct and certain other "excepted trusts" need not be disclosed. Have you excluded from this report details of such a trust benefiting you, your spouse, or a dependent child? (See Instructions, pages 10–11.)	Yes [ ]	No [X]
EXEMPTION—Have you excluded from this report any other assets, "unearned" income, transactions, or liabilities of a spouse or dependent child because they meet all three tests for exemption? (See Instructions, page 11.)	Yes [ ]	No [X]

CERTIFICATION — THIS DOCUMENT MUST BE SIGNED BY THE REPORTING INDIVIDUAL AND DATED

This Financial Disclosure Statement is required by the Ethics in Government Act of 1978, as amended. The Statement will be available to any requesting person upon written application and will be reviewed by the Committee on Standards of Official Conduct or its designee. Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file this report may be subject to civil penalties (See 5 U.S.C. app. 6, § 104).

SIGNATURE OF REPORTING INDIVIDUAL: Robert D. Kilbanks

DATE (Month/Day/Year): May 15, 1996

61205827026

SCHEDULE I—EARNED INCOME (INCLUDING HONORARIA)

Name Robert D. Kilbanks | Page 2 of 4

List the source, type, and amount of earned income, including honoraria, from any source (other than your current employment by the U.S. Government) totalling $200 or more during the current year to the filing date *and*, separately, the preceding calendar year. For a spouse, list the source and amount of any honoraria; list only the source for other spouse earned income exceeding $1,000. For further information, see Instructions, pages 12–14.

Source (include date of receipt for honoraria)		Type	Amount	
			Current Year to Filing	Preceding Year
Examples:	XYZ Corporation, Houston, Texas	Salary	$6,300	$28,450
	First Bank & Trust, Houston, Texas	Director's Fee	$400	$3,200
	XYZ Trade Association, Chicago, IL. (Rec'd 12-2-94)	Honorarium	0	$1,000
	Harris County, Texas, Public Schools	Spouse Salary	NA	NA
Kilbanks Co., Realtors		fees and commissions	$19,400	$36,500.

This page may be copied if more space is required.

U 8 7 0 5 8 3 0 4 0 7 6

SCHEDULE II — ASSETS AND "UNEARNED" INCOME

Name Robert D. Kilbanks | Page 3 of 4

BLOCK A
Asset and/or Income Source

Identify (a) each asset held for investment or production of income with a fair market value exceeding $1,000 at the end of the reporting period, and (b) any other asset or source of income which generated more than $200 in "unearned" income during the period. For rental property or land, provide an address. Provide full names of any mutual funds. For an IRA or retirement plan that is *self-directed*, list the underlying assets worth more than $1,000. For an IRA or retirement plan that is *not* self-directed, name the institution holding the account.

Exclude: Your personal residence(s) (unless there is rental income); any debt owed to you by your spouse, or by your or your spouse's child, parent, or sibling; any deposits totalling $5,000 or less in personal savings accounts; any financial interests in or income derived from U.S. Government retirement programs.

If you so choose, you may indicate that an asset or income source is that of your spouse (SP) or dependent child (DC) or is jointly held (JT), in the optional column on the far left.

For further information, see instructions, pages 14–20.

BLOCK B
Value of Asset

at close of reporting period.
If you use a valuation method other than fair market value, please specify the method used.
If an asset was sold and is included only because it generated income, the value should be "None."

BLOCK C
Type of Income

If other than one of the listed categories, specify the type of income by writing a brief description in this block.

BLOCK D
Amount of Income

For IRA's and retirement plans that are *not* self-directed, you may write in "NA" for income.

			A None – $1,000	B $1,001 – $15,000	C $15,001 – $50,000	D $50,001 – $100,000	E $100,001 – $250,000	F $250,001 – $500,000	G $500,001 – $1,000,000	H $1,000,001 – $5,000,000	I $5,000,001 – $25,000,000	J $25,000,001 – $50,000,000	K Over $50,000,000	DIVIDENDS	RENT	INTEREST	CAPITAL GAINS	EXCEPTED TRUST	QUALIFIED BLIND TRUST	Current Year I None – $200	II $201 – $1,000	III $1,001 – $2,500	IV $2,501 – $5,000	V $5,001 – $15,000	VI $15,001 – $50,000	VII $50,001 – $100,000	VIII $100,001 – $1,000,000	IX $1,000,001 – $5,000,000	X Over $5,000,000	Preceding Year I None – $200	II $201 – $1,000	III $1,001 – $2,500	IV $2,501 – $5,000	V $5,001 – $15,000	VI $15,001 – $50,000	VII $50,001 – $100,000	VIII $100,001 – $1,000,000	IX $1,000,001 – $5,000,000	X Over $5,000,000
SP, DC, JT	*Examples:*	SP	Mega Corp. Stock				X							X																								
			123 Main St., Dover, Del.						X						X										X									X				
			1st Bank of Paducah, KY accounts				X									X							X												X			
	2486 Fawn Rd. East Stroudsburg, PA rental						X								X								X												X			
	2486 Fawn Rd. Overdue Rent														X								X															
	First Union Bank Account Charlotte, North Carolina			X												X			X											X							

For additional assets and unearned income, use next page.

9 7 0 4 3 8 5 0 7 8 1

Name Robert D. Kilbanks | Page 4 of 4

SCHEDULE III — LIABILITIES

Report liabilities of over $10,000 owed to any one creditor *at any time* during the reporting period by you, your spouse, or dependent child. Mark the highest amount owed during the reporting period. **Exclude:** Any mortgage on your personal residence (unless there is rental income); loans secured by automobiles, household furniture, or appliances; and liabilities owed to a spouse, or the child, parent, or sibling of you or your spouse. Report *revolving charge accounts* only if the balance at the end of the reporting period exceeded $10,000. For further information, see Instructions, pages 21–22.

SP, DC, JT	Creditor	Type of Liability	Amount of Liability									
			B $10,001—$15,000	C $15,001—$50,000	D $50,001—$100,000	E $100,001—$250,000	F $250,001—$500,000	G $500,001—$1,000,000	H $1,000,001—$5,000,000	I $5,000,001—$25,000,000	J $25,000,001—$50,000,000	K Over $50,000,000
	Example: First Bank of Wilmington, Delaware	Mortgage on 123 Main Street, Dover, Del.				X						
	Centerbank Mortgage Co. Waterbury, CT	mortgage on 486 Fawn Rd. rental			X							

SCHEDULE IV — POSITIONS

Report all positions, compensated or uncompensated, held on or before the date of filing during the current calendar year and in the two prior years as an officer, director, trustee of an organization, partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. For further information, see Instructions, pages 25–26.

Exclude: Positions held in any religious, social, fraternal, or political entities; positions solely of an honorary nature; and positions listed on Schedule I.

Position	Name of Organization
President	Kilbanks Co.
Trustee	Help-A-Child Worldwide, Inc.

Use additional sheets if more space is required.

9704385076

MORNING CALL

April 9, 1996

Kilbanks pours cash into race

But Ken Smith holds funding lead in the congressional campaign for 15th District.

By JOHN P. MARTIN
Of The Morning Call

Republican congressional candidate Bob Kilbanks, a real estate agent who earned less than $40,000 in the 20 months before launching his campaign, has since spent nearly $50,000 on his election bid, according to campaign finance reports.

That's just one of the highlights in the reports, due this week to the Federal Elections Commission and released yesterday by the candidates in the 15th Congressional District.

Among the others:

▶ Bethlehem Mayor Ken Smith, buoyed in part by an endorsement party last month with Gov. Tom Ridge that netted Smith about $20,000, continued to outpace his opponents. With only two weeks left in the primary campaign, Smith has spent $63,369 but still has $79,867 on hand, more than six times as much as his nearest opponent.

▶ Jim Brose, one of two Easton attorneys vying for the GOP nomination, is the only candidate to spend money on broadcast advertising during the latest period, which began Jan. 1 and ended Wednesday. Brose raised $15,010 during the period and spent all but $1,897.

▶ Edward Smith, the other attorney, spent the least of any candidate, $10,117, in the past three months but entered the campaign's final stretch with $12,442 on hand.

▶ Despite facing no primary opposition, incumbent Democrat Paul McHale spent more than $27,000 on his campaign during the period, partly to repay debts and partly to facilitate fund-raising.

Please See FINANCES Page B4 ▶

FINANCES

▶Continued From Page B1

McHale ended the period carrying $86,808 in contributions and $7,783 in debts.

But perhaps the most interesting report belonged to Kilbanks, whose personal contributions accounted for 80 percent of the $41,000 he added to his campaign coffers since January, after donating nearly $8,000 last year.

Kilbanks contributed $21,000 in the first two months, added $9,000 last month and chipped in $11,000 more last week, including a $10,000 loan that he could recoup after the campaign.

"I think it's worth the sacrifice," he said last night.

Kilbanks said most of the money was in the form of customary gifts from his mother, Jacqueline Kilbanks of Easton. He said his campaign solicitor approved the use of the money.

But the funding arrangement appears to conflict with federal regulations regarding campaign financing. FEC law prohibits individual contributions of more than $1,000 and forbids candidates from accepting personal gifts from anyone — including family members — if the money is to be used for campaigning.

Kilbanks' mother donated the $1,000 limit to his campaign last year.

When he filed a financial disclosure form with the House of Representatives in September, Kilbanks listed income of $36,090 since January 1994 as a real estate agent. He also collected $1,300 as a ski instructor.

His assets included a rental property in East Stroudsburg and a bank account with between $1,000 and $15,000. He reported no trusts and said he had not received compensation of more than $5,000 from a single source in the prior two years.

FEC officials could not be reached last night for comment.

While the candidates tend to downplay it, Kilbanks' contributions alone highlight the role that money has played in the race.

When Ken Smith jumped out to a massive lead in December — collecting more than $100,000 and a 4-1 funding lead over his nearest opponent — Kilbanks began portraying the mayor as beholden to the corporate executives whose checks filled his coffers.

McHale, who was outspent nearly 3-1 by his Republican opponents in 1992 and 1994, also took to calling the mayor a pawn of the barons. McHale has said he expects to again trail his opponent and defended accepting political action committee money as a balance to the wealthy individual contributions on which many Republicans rely.

Edward Smith has become fond of saying that if elections are determined by fund-raising, then voters should forgo their day at the polls and instead choose officials based on the size of their money piles.

9704385073

Reports show cash's role in 15th District campaign

Kilbanks pours money into his effort, but Ken Smith holds the funding lead; McHale tackles debt and fund-raising.

By JOHN P. MARTIN
Of The Morning Call

Republican congressional candidate Bob Kilbanks, a [illegible] agent who earned less than $40,000 in the 20 [illegible] before launching his campaign, has since spent [illegible] $69,000 on his election bid, according to campaign finance reports.

That's just one of the highlights in the reports, due this week to the Federal Elections Commission and released yesterday by the candidates in the 15th Congressional District.

Among the others:

▶ Bethlehem Mayor Ken Smith, buoyed in part by an endorsement party last month with Gov. Tom Ridge that netted him about $80,000, continued to outpace his opponents. With only two weeks left in the primary campaign, Smith has spent $88,269 but still has $70,897 on hand, more than six times as much as his nearest opponent.

▶ Jim Brose, one of two Easton attorneys vying for the GOP nomination, is the only candidate to spend money on broadcast advertising during the latest period, which began Jan. 1 and ended Wednesday. Brose raised $15,010 during the period and spent all but $1,897.

▶ Edward Smith, the other attorney, spent the least of any candidate, $10,117, in the past three months but entered the campaign stretch with $12,442 on hand.

▶ Despite facing no primary opposition, incumbent Democrat Paul McHale spent more than $27,000 on his campaign during the period, partly to repay debts and partly to facilitate fund-raising. McHale ended the period carrying $65,808 in contributions and $7,783 in debts.

But perhaps the most interesting report belonged to Kilbanks, whose personal contributions accounted for 80

Please See REPORTS Page B5 ▶

ELECTION '96

REPORTS

▶Continued From Page B1

percent of the $41,000 he added to his campaign coffers since January, after donating nearly $6,000 last year.

Kilbanks contributed $21,000 in the first two months, added $9,000 last month and chipped in $11,000 more last week, including a $10,000 loan that he could recoup after the campaign.

"I think it's worth the sacrifice," he said last night.

Kilbanks said most of the money was in the form of customary gifts from his mother, Jacqueline Kilbanks of Easton. He said his campaign solicitor approved the use of the money.

But the funding arrangement appears to conflict with federal regulations regarding campaign financing. FEC law prohibits individual contributions of more than $1,000 and forbids candidates from accepting personal gifts from anyone — including family members — if the money is to be used for campaigning.

Kilbanks' mother donated the $1,000 limit to his campaign last year.

When he filed a financial disclosure form with the House of Representatives in September, Kilbanks listed income of $38,000 since January 1994 as a real estate agent. He also collected $1,300 as a ski instructor.

His assets included a rental property in East Stroudsburg and a bank account with between $1,000 and $15,000. He reported no trusts and said he had not received compensation of more than $5,000 from a single source in the prior two years.

FEC officials could not be reached last night for comment.

While the candidates tend to downplay it, Kilbanks' contributions alone highlight the role that money has played in the race.

When Ken Smith jumped out to a massive lead in December — collecting more than $100,000 and a 4-1 funding lead over his nearest opponent — Kilbanks began portraying the mayor as beholden to the corporate executives whose checks filled his coffers.

McHale, who was outspent nearly 3-1 by his Republican opponents in 1992 and 1994, also took to calling the mayor a pawn of the barons. McHale has said he expects to again trail his opponent and defended accepting political action committee money as a balance to the wealthy individual contributions on which many Republicans rely.

Edward Smith has become fond of saying that if elections are determined by fund-raising, then voters should forgo their day at the polls and instead choose officials based on the size of their money piles. But he also acknowledged early in the campaign that a successful candidate would need $75,000 — about twice as much as he has raised.

And Ken Smith, whose pile would tower over the others, has suggested GOP constituents are voting with their checkbooks and he is the candidate they want.

So how much impact does money have in congressional campaigns?

The average cost of a campaign in contested races two years ago was more than $468,000. That same year, winners outspent losers in 8[illegible] percent of races, according to the Center for Responsive Politics.

9704385074

Candidate's mom, wallet funding race

By CHRISTOPHER JUDD
The Express-Times

BETHLEHEM — Bob Kilbanks is dipping heavily into personal and family savings to keep his Republican congressional campaign alive until the primary election.

And, he said, he was able to lend his campaign more than $30,000, thanks to gifts from his mother.

The contributions Kilbanks made to himself raised eyebrows among those who support Ken

Please see KILBANKS /A-2

KILBANKS

Continued from A-1

Smith, but it's unlikely Smith will file a formal complaint. Kilbanks reported income from his business through 1994 and 1995 of $38,000. He was able to lend his campaign $30,120 because of financial gifts from his mother, he said.

Individual contributors can give no more than $1,000 to a candidate, a limit reached by Kilbanks' mother, Jacqueline, last year. It is illegal for a contributor to give cash to a candidate as a personal "gift" above the limit for the sole purpose of the candidate turning around and giving the money to the campaign.

However, if it's a customary gift the candidate has received for several years prior to the campaign, it is allowed, said Federal Election Commission spokeswoman Kelly Huff.

"If his parents have been giving him thousands of dollars every few years, that is fine," said Huff.

Kilbanks has received such gifts for years and can prove it, said campaign manager Steve Finney. A Smith campaign spokesman said Smith would likely not file a complaint.

Kilbanks' finance report, filed with the FEC, says Kilbanks himself accounted for $40,120 of the $50,477 his campaign took in from January to April. About $10,000 came from other contributors.

The Easton Realtor had more success generating contributions in the last six months of 1995, when nearly $17,000 of the $24,000 he raised came from contributors other than himself. Kilbanks also kicked in $7,726 during that period.

Kilbanks, who also sought the 15th Congressional District seat in 1994, is second only to perceived front-runner Ken Smith in organizational support in a field of four GOP candidates. Kilbanks has the support of many Northampton County Republican Committee volunteers who are loyal to former committee Chairman Charlie Roberts, Kilbanks' campaign director.

Still, Smith, the mayor of Bethlehem, has outpaced Kilbanks' fund-raising efforts by a better than 2-1 margin. However, Kilbanks said Smith has gone after and received vast corporate donations, while he focused on grass-roots support. Kilbanks said he'll spend whatever is necessary to win.

"There is a message and concerns that people want to see addressed in Washington and any amount of financial sacrifice is worth it," he said.

Meanwhile, Kilbanks is using his remaining dollars to launch upcoming television and radio advertisements to boost his name recognition in the days leading up to the April 23 election.

"They're on deck," said Kilbanks.

9704358507865

Kilbanks defends cash gift

He said his mom's $40,000 present, which he gave to his campaign for the 15th Congressional District seat, is acceptable under U.S. rules.

By JOHN P. MARTIN
Of The Morning Call

Around this time two years ago, Bob Kilbanks had spent less than $710 on his bid for the Republican nomination to the 15th Congressional District and was calling for the end to expensive campaigns.

Yesterday, Kilbanks was defending his acceptance of about $40,000 in "gift money" he received from his mother in recent months and poured into his second campaign for the seat.

At issue is a federal regulation that limits the circumstances under which a candidate may transfer a relative's money into personal campaign funds.

"We're completely confident we're compliant with the code," Kilbanks said yesterday.

The contributions emerged in finance reports Kilbanks filed this week with the Federal Election Commission. The reports show Kilbanks has donated more than $37,700 and lent an additional $10,000 to his campaign despite earning just $39,000 in the 20 months before he launched his candidacy in September.

Kilbanks said yesterday that the bulk of the money — about $40,000 — was given to him by his mother, Jacqueline Kilbanks of Easton.

KILBANKS

▶Continued From Page A1

The FEC prohibits candidates from accepting individual contributions of more than $1,000 — even from relatives — but sets no ceiling on the personal funds a candidate may spend. Such funds typically refer to income and investments, but may also include "gifts of a personal nature which had been customarily received prior to candidacy."

Both Kilbanks and his mother said she gave him similar amounts of about $40,000 in the previous three years and therefore the contributions were acceptable as customary gifts.

The FEC has never clearly defined "customary gifts." In 1988, the commission ruled that a $30,000 payment to one candidate from his parents was permissible because he had received similar gifts for several years "without regard to [the candidate's] possible candidacy for federal office."

In other instances, federal courts have levied fines against candidates for violating the code.

Kilbanks declined yesterday to provide proof of the gifts his mother has given him in previous years, saying he would do so only if he were asked by FEC officials.

His mother said that, when she first gave him such a gift in 1988, she did so believing he might use it for his campaign.

"Maybe in the back of my mind I probably had that thought," Jacqueline Kilbanks, who contributed $1,000 to her son's campaign last summer, said yesterday from the Easton home they share.

It's clear, however, that Kilbanks did not use such a sum on his first campaign. By his own account, he spent only $2,000 on his unsuccessful primary bid in 1994 and never formed a campaign committee.

And when he filed financial disclosure forms with the House of Representatives in September, the only assets he reported were a rental home in Stroudsburg and a bank account containing between $1,000 and $15,000.

Campaign manager Steve Finney said yesterday the campaign had contacted the FEC and was confident that the contributions, approved by the campaign solicitor, were legal.

FEC spokesman Ian Stirton said yesterday he could not discuss specific races.

The question of the contributions clearly was unsettling for the real estate agent who has hyped his campaign as a grass-roots effort built not on money but volunteers and hard work. By contrast, he has portrayed the campaign of GOP favorite Ken Smith, Bethlehem's mayor, as one dependent on the financial support of wealthy business executives.

In all, Kilbanks personally has accounted for 65 percent of the $75,000 in contributions logged by his campaign — by far the most of any contender in the race.

Easton attorney Jim Brose has contributed $6,100 of the $26,000 he has raised since the campaign opened. Edward Smith, also an Easton attorney, accounted for $1,000 of his $31,000.

Ken Smith tops all candidates with more than $150,000 in contributions, but none has come from the candidate himself. And Paul McHale, the incumbent Democrat, has lent his campaign money in the past but gave nothing during the most recent reporting period.

■ Kilbanks for 'common sense'

To the Editor:

We have two choices in the upcoming Republican congressional primary. The first is business-as-usual, go-along-to-get-along, big-money-for-big-favors career politician, Ken Smith.

The second is an individual concerned about the ever-expanding size and scope of government, a working man concerned about the shrinking standard of living of working men and women, a common sense individual who believes in a constitutional government of laws, and who will vote in accordance to that Constitution for the common good of us all.

That individual is Bob Kilbanks.

David R. Behn
Palmer Township

9 7 0 4 3 8 5 0 7 8 6

Brose, FEC have different stories about his complaint

By CHRISTOPHER JUDD
The Express-Times

BETHLEHEM — Someone may have to launch an investigation into the possible investigation.

It's been nearly three weeks since Republican congressional primary candidate James Brose announced he was filing a Federal Election Commission complaint against fellow candidate Bob Kilbanks, but an FEC spokeswoman said the complaint hadn't been received as of Wednesday.

Brose said Wednesday someone at the FEC told him the complaint was received April 22, the day before Kilbanks topped Brose and two others to win the GOP nomination for the 15th Congressional District seat.

"They have it," said Brose, who said he spoke to someone in the FEC general counsel's office.

The FEC still hasn't seen it, said commission spokeswoman Kelly Huff. It is possible the general counsel has a copy of the complaint, "but, that doesn't count," Huff said.

Brose said he sent the complaint via fax and mail. The complaint alleges Kilbanks ac-

Please see FEC /B-3

5/2/96 E/T

B1

FEC

Continued from B-1

cepted more than $1,000 in contributions from his mother, exceeding the limit.

Kilbanks said the more than $40,000 that came from his mother was a customary gift, part of a series of payments that began before the race, and therefore not subject to the FEC limit.

Kilbanks, who pulled off a victory over Bethlehem Mayor Ken Smith on Tuesday, April 23, is in Washington, D.C., this week with his campaign leaders. A member of his staff said the campaign had not been notified by the FEC that a complaint had been filed.

The FEC is supposed to notify the target of a complaint within five days of the complaint being filed, said Huff. The candidate then has 15 days to respond. If Brose's complaint does go before the FEC, the matter would be played out over the next couple of months in the early stages of Kilbanks' race against incumbent Democrat Paul McHale and Reform Party candidate Nicholas Sabatino III.

The commission could decide no action is warranted, or could impose a civil penalty.

Regardless of whether the complaint is yet in the FEC hands, Brose said he will follow through and won't drop the matter in the name of party unity.

"No, I'm not going to drop the complaint, short of some proof that Bob Kilbanks didn't violate the law," said Brose, an Easton attorney. "We're following through with the complaint. I would call it a major violation."

9704385078 7

Kilbanks on hot seat in debate

Other 15th District hopefuls cover familiar territory as Easton real estate agent fields questions on his campaign finances.

By MARTIN PFLIEGER
And JOHN P. MARTIN
Of The Morning Call

Republican candidate Bob Kilbanks had hoped last night to turn the spotlight on Ken Smith, the man he sees as his chief opponent. Instead, Kilbanks found himself staving off questions about his campaign's use of about $[illegible]0 from his mother.

During taping of a WLVT-TV Channel 39 debate for hopefuls in the 15th Congressional District, candidate Jim Brose asked Kilbanks to explain when he received the money and why he won't make public records of the contributions.

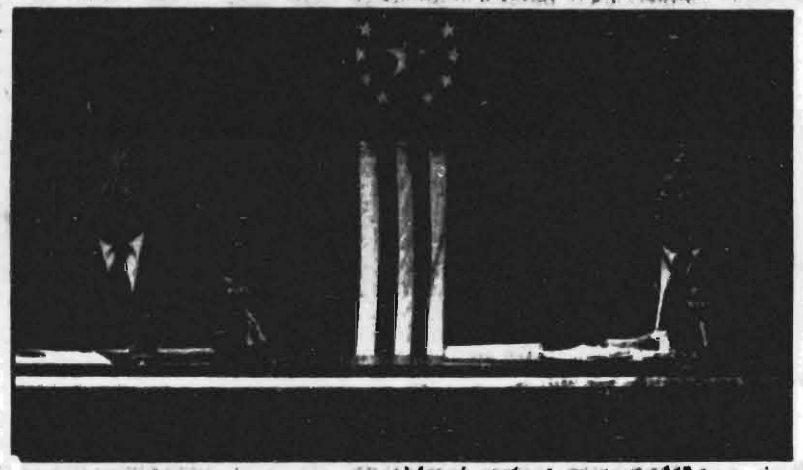
Kilbanks, an Easton real estate agent, was the first to raise the issue during the debate and defended the contributions as proper. He also accused the press of conducting "an excessive investigation in the wrong direction."

But he still declined to offer documents he says can prove the contributions were legal.

The issue was perhaps the highlight in the hourlong debate during which Smith, the Bethlehem mayor, continued to rest on his perceived status as the front runner; Kilbanks devoted his time to trying to highlight flaws in the mayor's tenure; and political newcomers Brose and Edward Smith tried to stake their claims to the April 23 nomination.

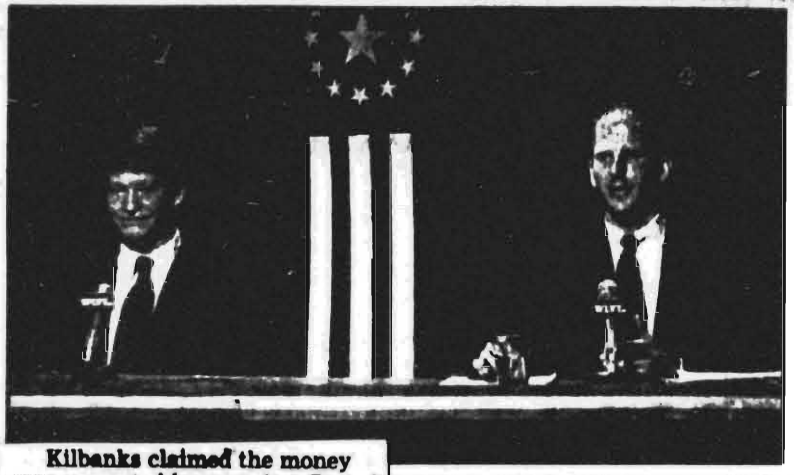
The issue of Kilbanks' contributions emerged this week, when campaign finance reports filed with the Federal Elections Commission showed that he has contributed more than $47,000 to his campaign. He later admitted that about $40,000 of it came from his mother, Jacqueline Kilbanks.

FEC code prohibits candidates from accepting contributions of more than $1,000 from individuals but sets no ceiling on the amount



Candidates Ken Smith (left) and Bob Kilbanks at Channel 39 debate

The Morning Call



ELECTION '96

Candidates Edward Smith (left) and James Brose at 15th Congressional District taping.

Kilbanks claimed the money was exempted because it reflected money his mother customarily has given him in recent years, before his decision to run for office. His mother said she first gave him the money in 1993, knowing he might use it for his congressional campaign in 1994.

After the debate, Brose said he will ask the FEC to investigate the contributions. Others offered opinions of the controversy, but fell short of saying they would file complaints.

"My interpretation of the FEC code is that he blatantly violated it," said candidate Edward Smith.

[illegible] said Dan Craig, campaign man-

ager for Ken Smith, "There's no question in my mind. I know it's a blatant violation."

Kilbanks, however, steadfastly maintained that he would not make public any documents to support his contention that the donation was legal.

"I've just decided the best thing is to have it reviewed by the proper authorities," he said after the debate.

For the rest of the debate, the candidates staked out familiar, often similar, territory.

Kilbanks opposes abortion except in cases of rape or incest. Edward Smith opposes any abortion. And Brose and Ken Smith are pro-abortion rights.

All the candidates advocate welfare reform and a balanced federal budget. And none would raise the minimum wage.

Ken Smith continued to contrast his experience with his opponents', asking them to outline their qualifications and arguing they had none. The mayor seemed so confident that he used his 45-second closing statement to issue a call for the party to unite and win back the seat in November from Democratic Rep. Paul McHale.

But the debate wasn't all hard questions and answers. When Edward Smith ran out of questions for his opponents, he lobbed a softball at his neighbor, Brose.

"How do you see the campaign going so far, Jim?" Edward Smith asked.

The debate will air at 8 p.m. April 22, hours before the polls will open.

April 11, 1996
m/c

9704385078

House hopefuls debate for TV

GOP candidates square off on issues for the Channel 39 election program.

By CHRISTOPHER JUDD
The Express-Times

BETHLEHEM — Lehigh Valley Republican congressional candidates took aim at each other in a television debate Wednesday.

The hour-long forum, which will air 8 p.m. Monday, April 22 — primary election eve — on WLVT-TV Channel 39, included time for the four candidates to question each other. Members of the media and the League of Women Voters also questioned candidates Edward Smith, Jim Brose, Ken Smith and Bob Kilbanks.

Kilbanks, seen by many observers as the main rival of Bethlehem Mayor Ken Smith for the nomination, took Smith to task for raising property taxes in six of his nine years as mayor. Smith has also declined to sign a pledge to not vote for a tax hike in Congress.

How will Smith stand up to the pressure to raise taxes in Washington "when you haven't done it in Bethlehem?" asked Kilbanks, an Easton Realtor.

"Almost everyone knows we inherited some serious problems," said Smith, pointing to a municipal landfill that had to be cleaned and expanded, the state-mandated construction of a water filtration plant and the recent beginning of a $67 million dam repair project.

Bethlehem residents said at the ballot box they understood the need for infrastructure improvements, said Smith.

"The citizens of Bethlehem made a decision, not just the first time they elected me, but the next two elections," said

Please see DEBATE /B-2

DEBATE

Continued from B-1

Smith.

Smith asked his opponents what government experience they would bring to Congress.

"I don't have any political experience," said Brose, who, like Edward Smith, practices law in Easton. "You need to be able to tell right from wrong."

"Being a mayor does not qualify you in any way, or train you as a legislator," said Edward Smith, who said voters should send nonpoliticians to Washington and expect them to retire after two terms.

Brose asked Kilbanks if he would make public evidence that supports Kilbanks' contention that $40,000 he received from his mother for his campaign was within Federal Election Commission rules. A candidate can accept only so much from an individual if it's proven that it is money the candidate has received over several years and not only during an election.

"I have no problem making that evidence public," Kilbanks said. "But, it needs to be done at the proper agency, and that's the FEC."

Edward Smith challenged Kilbanks' anti-abortion credentials because Kilbanks supports exceptions of an abortion ban in cases of rape and incest. Edward Smith supports no exceptions.

"Those are very sensitive and delicate matters," said Kilbanks, who added he would promote adoption as an alternative.

Ken Smith defended his stand for abortion rights, saying it's in line with the Republican philosophy of getting the federal government out of private lives.

The hour-long forum will air 8 p.m. Monday, April 22, on WLVT-TV Channel 39.

In answering one question, Ken Smith said he was disappointed reporters did not question Kilbanks on his oft-repeated claim he had experience working for a member of Congress and as a teacher. Smith said the experience has been exaggerated by Kilbanks.

After the debate, Kilbanks said he worked for one year as an aide to U.S. Rep. Dan Marriott, D-Utah, in 1970. He said he also holds a teacher's certificate and taught at a private school in Maine in 1978.

April 11, 1996

Express-Times
4-9-96

Ken Smith tops GOP hopefuls in finances for McHale's seat

By CHRISTOPHER JUDD
The Express-Times

BETHLEHEM — The begging for votes and cash is almost over in the Lehigh Valley Republican congressional primary.

Two weeks before the April 23 primary, candidates filed fund-raising reports with the Federal Election Commission for the period covering January 1 through April 3.

Bethlehem Mayor Ken Smith led the four Republicans in fund-raising for the period, receiving $57,869. Most of it came from a March 14 fund-raiser attended by Gov. Tom Ridge. Smith raised $100,411 in the last six months of 1995.

"After December, we set a goal of raising an additional $50,000 by primary day, and we're ahead of that," Smith said Monday. "The first money is the easiest. Then it gets harder."

Bob Kilbanks reported contributions of $40,477, in addition to a loan of $10,000 to himself. Kilbanks, who raised $24,636 in the last period, owns Kilbanks Co., a real estate business in Easton.

PRIMARY ★★ '96

"I'd like to have raised a hell of a lot more," said campaign director Charlie Roberts.

James Brose's campaign raised $15,010 and spent $13,450, leaving him with $1,897. Brose, an Easton attorney, spent $3,500 of his own money.

Edward Smith, also an Easton attorney, raised $10,452 and began the period with $11,000. After spending about $10,000 during the period he was left with a balance of $12,442.

Kilbanks began the period with $7,400 on hand and ended it with a balance of $10,609. He has not run any television of radio advertisements, but has purchased some which will soon air, said Roberts.

Ken Smith had plenty of corporate help, as he did in his initial report, receiving contributions from officials with Bethlehem Steel Corp., Air Products and Chemicals and others.

His campaign began the period with $85,343 and ended with a balance of $79,867.

0 6 7 0 5 8 3 4 0 7 6 9

Kilbanks faces FEC probe

At issue is GOP candidate's use of $40,000 he said he received from his mother.

By JOHN P. MARTIN
Of The Morning Call

The Federal Election Commission yesterday said it will investigate allegations that Bob Kilbanks illegally financed his campaign for the Republican nomination to the 15th Congressional District.

Kelly Huff, an FEC spokeswoman, said the commission will look into a complaint filed this week by Jim Brose, one of three candidates Kilbanks defeated in the April 23 primary election.

Kilbanks

Brose

Brose said he sent a complaint on April 19, but it apparently was lost in the mail. He mailed a second one last week.

Huff said the commission will send Kilbanks a letter by week's end detailing the allegations. He in turn will have 15 days to file a response arguing why the complaint should be dismissed.

At issue is Kilbanks' campaign use of about $40,000 he said he received from his mother, Jacqueline Kilbanks, during his candidacy.

Federal election codes generally prohibit individuals from contributing more than $1,000 to a campaign but set no limit on the amount of personal funds a candidate may spend.

Such funds typically refer to income and investments, but may

Please See FEC Page B6 ▶

FEC

▶Continued From Page B1

also include "gifts of a personal nature which had been customarily received prior to candidacy."

Kilbanks has defended the contributions as such "customary gifts," saying that his mother had given him about $40,000 annually since 1993, less than a year before his first campaign for Congress.

Kilbanks, an Easton real estate agent who reported income of less than $34,000 in the 20 months prior to launching his campaign in September, has said he will prove his contention only if asked to do so by the FEC.

Meanwhile, he attacked his opponents for politicizing the issue and the press for what he called "excessive investigation" into his finances.

On April 23, Kilbanks topped Brose, Bethlehem Mayor Ken Smith and Easton attorney Edward Smith for the nomination. He will face incumbent Democrat Paul McHale in November.

Huff, the FEC spokeswoman, said the commission's general counsel will consider Brose's complaint and Kilbanks' response, then recommend to the commission whether to proceed with the case or dismiss it.

She said the commission will not release release details of its investigation until it is complete, and it does not have a time line for reaching a decision.

"We have limited staff and limited resources," Huff said.

Steve Finney, Kilbanks' campaign manager, said yesterday he is very confident the complaint will be dismissed.

9704385079 1

Law Offices of

Jeffrey S. Smith & Associates

2704 William Penn Highway
Easton, PA 18045
(610) 258-7809

Mr. Tim Sowecke
Publisher - The Express Times
P.O. Box 391
Easton, PA 18044

April 11, 1996

Re: Bob Kilbanks

Dear Mr. Sowecke:

Allow me to introduce myself. My name is Jeffrey S. Smith and I have the distinct pleasure and honor of serving as the Solicitor to the Friends of Bob Kilbanks Committee. I have read, with great interest, the recent articles that your paper has printed regarding Bob Kilbanks and *his* personal funding of his campaign. I wish to advise that these articles are both legally and factually inaccurate and misleading. As the sole legal authority with full and complete knowledge of the evidence of the "customary personal gifts" and the facts surrounding Bob's contributions I am both surprised, frustrated and angry that, despite repeated personal pleas from Bob and his campaign referring all legal matters to my attention, I have never been contacted to provide the facts, both legal and otherwise, surrounding Bob's contributions

I would also like to emphasize that everyone who has a full understanding of the facts and circumstances of these contributions as well as the Code of Federal Regulations has confirmed the legality of these contributions. I have authorized these contributions and the F.E.C. has been contacted, by our campaign as well as your reporter and a reporter from a rival publication, and the F.E.C. has indicated, each time, that the contributions are legal. Additionally, I possess an advisory opinion, from the F.E.C., which, once again, supports Bob's position. The sole inference of impropriety comes from reporters in desperate search of a story and/or opposing campaigns attempting to elevate their candidacy through a smear campaign of accusation and innuendo. These two groups (reporters and opposing campaigns) do not possess one tenth of the facts or law in this area. Accordingly, I must demand a full and complete retraction of all of the various inaccuracies contained in these articles.

If you choose to support your representation of the facts and circumstances surrounding this issue then I must demand that you provide the basis for the facts, events and law that is cited in your stories.

Thanking you, in advance, for your anticipated cooperation herein, I remain,

Very truly yours;

Jeffrey S. Smith, Esquire

cc: The Friends of Bob Kilbanks

9704385079 2

Law Offices of
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, PA 18045
(610) 258-7099

Mr. Gary Shorts
Publisher - The Morning Call
P.O. Box 1260
101 N. 6th Street
Allentown, PA 18105

April 11, 1996

Re: Bob Kilbanks

Dear Mr. Shorts:

Allow me to introduce myself. My name is Jeffrey S. Smith and I have the distinct pleasure and honor of serving as the Solicitor to the Friends of Bob Kilbanks Committee. I have read, with great interest, the recent articles that your paper has printed regarding Bob Kilbanks and *his* personal funding of his campaign. I wish to advise that these articles are both legally and factually inaccurate and misleading. As the sole legal authority with full and complete knowledge of the evidence of the "customary personal gifts" and the facts surrounding Bob's contributions I am both surprised, frustrated and angry that, despite repeated personal pleas from Bob and his campaign referring all legal matters to my attention, I have never been contacted to provide the facts, both legal and otherwise, surrounding Bob's contributions

I would also like to emphasize that everyone who has a full understanding of the facts and circumstances of these contributions as well as the Code of Federal Regulations has confirmed the legality of these contributions. I have authorized these contributions and the F.E.C. has been contacted, by our campaign as well as your reporter and a reporter from a rival publication, and the F.E.C. has indicated, each time, that the contributions are legal. Additionally, your reporter has obtained an advisory opinion which, once again, supports Bob's position. The sole inference of impropriety comes from reporters in desperate search of a story and/or opposing campaigns attempting to elevate there candidacy through a smear campaign of accusation and innuendo. These two groups (reporters and opposing campaigns) do not possess one tenth of the facts or law in this area. Accordingly, I must demand a full and complete retraction of all of the various inaccuracies contained in these articles.

If you choose to support your representation of the facts and circumstances surrounding this issue then I must demand that you provide the basis for the facts, events and law that is cited in your stories.

Thanking you, in advance, for your anticipated cooperation herein, I remain,

Very truly yours;

_____
Jeffrey S. Smith, Esquire

cc: The Friends of Bob Kilbanks

9704385079 3

An Open Letter to Voters in the 15th Congressional District

Dear Voters:

I am Bob Kilbanks, a Republican candidate for Congress. My candidacy has been endorsed by the Pro-Life Federation and National Rifle Association.

At the request of many of my supporters who know me well and are offended and angered over the distorted press coverage of my campaign finances, I've placed this ad to help clarify our financial reports and give you details not covered by the press.

Several reports in the local press have inferred that my campaign has not followed the regulations of the Federal Election Commission.

Let me assure you that all actions taken by my campaign with regard to financial matters have been approved by our campaign's legal counsel and I am confident that we are in complete compliance with the Federal Election Code. The FEC has not received a complaint regarding this matter and we have received Advisory Opinions from the FEC regarding our finance reports. We have been in contact with the Commission throughout the entire process.

The facts are that individuals are permitted to fund as much of their own campaigns as they wish. I have, over the years, received personal gifts of money from my mother. These gifts were given **not as campaign contributions but as personal gifts**. Because they are "customary" gifts, and are documented, I have the right, according to FEC code, to spend this money on my campaign if I choose. After the many distortions and misrepresentations we've endured by the press, it is not hard to understand why we have chosen to disclose these records to the Federal Election Commission rather than to the newspaper.

The local press has attempted to portray the image that this campaign has not been open in addressing this issue. In purely political moves, several of my opponents have of course jumped on the band wagon and have expressed that they are "sure" we are not in compliance. Understandably, they would love to create an issue from this to further their own political goals. No formal complaints have been filed by these campaigns.

It is unfortunate that this has become such an important issue in this campaign. What we should be talking about are ways to reduce the size and spending of the federal government and to maintain the rights and values as stated in the Constitution and the Bill of Rights.

I have openly and publicly addressed this issue. The press has verified with my mother the facts surrounding these customary gifts. **Our campaign has made numerous requests that the press contact our solicitor, who will confirm that FEC rules have been met. These requests were ignored.** In fact, the first time the press reported on our finances, the story ran without any information or statement from the FEC at all and was written by a reporter who is not an expert in FEC regulations who interpreted FEC rules from a layman's handbook of the rules.

For this reporter to write that our campaign finance report "appears to conflict with federal regulations regarding campaign financing" is irresponsible reporting when not based on facts. In politics, even if there is no wrong-doing on our part, appearance of impropriety is enough to tarnish our campaign's image. **This is not fair to us or to voters who have a tough decision to make in this campaign.**

Those voters in the 15th District whom I have been able to meet with and talk with over the past few months and those who have known me for years know that I am a man of integrity, honesty, and consistency.

Our campaign has achieved a healthy balance of hundreds of contributions from supporters and the personal commitment and sacrifice on my part. **I am not beholden to special interests such as other politicians, corporations or PAC's. By adding personal funds in order to run a viable campaign, I have kept myself free to serve and listen to the people in our community, including those who cannot afford to contribute to a political campaign.**

In truth, the time has come to end politics as usual. You are tired of career politicians. You are seeking a congressional nominee who listens to you and considers your needs as more important than those who hold the campaign's purse strings. You want someone who responds to issues with a common-sense outlook and who is consistent in his beliefs. **I am that person. I'm a traditional Republican who supports term limits and I will refuse to take a congressional pension because I will never see my congressional term as a career, but as public service before returning to my home and business here in the Lehigh Valley.**

I hope you will consider my qualifications, my stands on this issues, and my values and support me at the polls on April 23rd.

Bob Kilbanks

BOB KILBANKS
Republican Candidate
15th Congressional District

On Election Day, April 23rd, VOTE Bob Kilbanks for Congress

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

March 29, 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1988-7

Peter M. Bakal
437 State Street
Albany, N.Y. 12203

Dear Mr. Bakal:

This responds to your letter of February 5, 1988 requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the use of a cash gift as a personal expenditure.

You state that you are presently an "undeclared candidate" for the United States House of Representatives from New York. Commission records do not indicate that you were a candidate for Federal office in either 1984 or 1986. You explain that during each of the last three years, 1985 through 1987, your parents gave you a $20,000 cash gift and that you anticipate your parents will give you another $20,000 gift in 1988.

You ask whether you may contribute these monetary gifts to your campaign as personal funds even if you have not received the 1988 gift before you become a 1988 Congressional candidate and "file for candidacy."1/

The Act prohibits any person from making contributions to any candidate or the candidate's authorized political committees with respect to any election for Federal office which, in the

1/ The Commission cautions that an individual becomes a candidate under the Act when that individual receives contributions or makes expenditures in excess of $5,000. 2 U.S.C. §431(2)(A), 11 CFR 100.3(a)(1). Any contributions such as a gift, loan, advance, deposit of money, in-kind contribution or anything of value made by any person for the purpose of influencing any election for Federal office, will count towards this $5,000 threshold. 11 CFR 100.7(a). Further, any expenditures will also count towards the $5,000 expenditure threshold for triggering candidate status. 11 CFR 100.8(a).

9704385079 5

aggregate, exceed $1,000. 2 U.S.C. §441a(a)(1)(A). Commission regulations, however, permit candidates for Federal office to make unlimited campaign expenditures from personal funds. 11 CFR 110.10(a).2/ "Personal funds" include salary and other income earned from bonafide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is the beneficiary; and gifts of a personal nature which had been customarily received prior to candidacy. 11 CFR 110.10(a)(2). These regulations were intended to reflect the Supreme Court's decision in Buckley v. Valeo, 424 U.S. 1, 52 (1976).

Based on your statements and the fact that you were not a candidate for Federal office in 1984 or 1986, the $20,000 cash gifts you received for the years 1985 through 1987 appear to be of a personal nature, rather than made in anticipation of or related to any campaign for Federal office. Accordingly, the Commission concludes that those gifts represent personal funds and are not subject to the contribution limits under the Act. Moreover, because the receipt of $20,000 per year from your parents in 1985, 1986, and 1987 indicates a repetitious custom of monetary gifts to you, apparently without regard to your possible candidacy for Federal office, the Commission concludes that another $20,000 cash gift under similar circumstances from your parents during 1988 will similarly be considered your personal funds regardless of whether you receive it before or after you become a candidate.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. §437f.

Sincerely yours,

Thomas J. Josefiak
Chairman for the
Federal Election Commission

2/ Presidential candidates who accept Federal payments under chapters 95 or 96 of the Internal Revenue Code are subject to limits on campaign expenditures from their personal funds. 26 U.S.C. §§ 9004(d), 9035.

9704385079796

Law Offices of
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, PA 18045
(610) 258-7899

James Brose, Esquire
1101 Northampton Street - 1101 Building
Easton, PA 18042

December 26, 1995

RE: 11 C.F.R. Section 110.11
(2 U.S.C. 441 d)
Campaign Advertising Disclaimers

Dear Attorney Brose:

Kindly allow me to introduce myself. I am Jeffrey S. Smith and I have the pleasure and honor of serving as the Solicitor for the Friends of Bob Kilbanks.

I wish to advise that the Brose billboard advertisements, located off of Route 22, have recently come to the attention of our committee. Specifically, we are concerned with the failure to comply with the above referenced laws which require disclaimers on all billboard advertisements. Of course, these violations have been brought to Bob's attention. In furtherance of a united Republican party I have been instructed, by Bob, to notify you of the violations and request compliance with the code. Your immediate attention to this matter is greatly appreciated.

Should you have any questions or concerns please do not hesitate to call.

Very truly yours;

Jeffrey S. Smith, Esquire

cc: Bob Kilbanks

9704385079 7

Law Offices of
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, PA 18045
(610) 258-7899

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 8 2 31 PM '96

Fran Hagan, Esquire
Central Enforcement Docket
Office of the General Counsel
Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463

June 28, 1996

Re: MUR 4353

Dear Attorney Hagan:

Enclosed herein please find the Statement(s) of Designation of Counsel that you have previously requested. If I can be of any further assistance please do not hesitate to call.

Very truly yours;

Jeffrey S. Smith, Esquire

Faxed

9704385079 98

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GEN. CNSL
96 JUL 2 31 PM

MUR 4353

NAME OF COUNSEL: Jeffrey S. Smith, Esquire

FIRM: Jeffrey S. Smith and Associates

ADDRESS: 2704 William Penn Highway

Easton, PA 18045

TELEPHONE: (610) 258-7899

FAX: (610) 253-8883

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

6/27/96
Date

Robert D. Kilbanks
Signature

RESPONDENT'S NAME: Robert D. Kilbanks

ADDRESS: 911 Northampton St.

Easton PA 18042

TELEPHONE: HOME

BUSINESS (610) 258-0444 610/974-9403

97043850799

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4353

NAME OF COUNSEL: Jeffrey S. Smith, Esquire

FIRM: Jeffrey S. Smith and Associates

ADDRESS: 2704 William Penn Highway

Easton, PA 18045

TELEPHONE: (610) 258-7899

FAX: (610) 253-8883

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Jul 8 2 31 PM '96

9700438508000

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

6/27/96
Date

Chris M Miller
Signature

RESPONDENT'S NAME: Chris M Miller

ADDRESS: 963 Bushkill Ctr Rd

Nazareth, PA 18064

TELEPHONE: HOME

BUSINESS ( ) 759-5524

STATEMENT OF DESIGNATION OF COUNSEL

JUL 0 2 31 PM '96
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MUR 4353

NAME OF COUNSEL: Jeffrey S. Smith, Esquire

FIRM: Jeffrey S. Smith and Associates

ADDRESS: 2704 William Penn Highway

Easton, PA 18045

TELEPHONE: (610) 258-7899

FAX: (610) 253-8883

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

6/27/96 Jacqueline Kilbanks
Date Signature

RESPONDENT'S NAME: JACQUELINE KILBANKS

ADDRESS: 47 N. 10th St.

EASTON PA 18042

TELEPHONE: HOME

BUSINESS(—) — —

9704385080 01

Law Offices of
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, PA 18045
(610) 258-7899

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Jul 30 2 30 PM '96

Fran Hagan, Esquire
Central Enforcement Docket
Office of the General Counsel
Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463

July 26, 1996

Re: MUR 4353

Dear Attorney Hagan:

Enclosed herein please find the following:

1. Copies of canceled checks and bank statements for the years 1990 - 1995;
2. Copies of Gift Tax Returns for the years 1992 - 1995;
3. An Affidavit from Robert D. Kilbanks and
4. An Affidavit from Jacqueline M. Kilbanks.

I have discussed the subject of the Gift Tax Returns with the Accountant who prepared said returns and have been advised that it is not uncommon for returns, such as these, to be filed late when no tax is owing. However; since the issue in this case is limited to the existence of customary gifts received prior to candidacy, I would suggest that these returns, in addition to the corresponding checks and bank statements, evidence a clear pattern of "customary gifts of a personal nature" which have been given prior to candidacy. Additionally, I apologize for my misunderstanding in regards to the filing requirements for Gift Tax Returns. You may recall that I suggested that said returns were not required as Mrs. Kilbanks was utilizing her $600,000.00 exemption during her life. Of course, I have since discovered otherwise.

Finally, I would also advise that the amount of the gift has increased annually, as Mrs. Kilbanks ages, to divest Mrs. Kilbanks' estate and take full advantage of the $600,000.00 exemption during her life. It is my understanding that this annual gift will, once again, be increased next year and in years to come until the exemption is fully utilized.

As always, should you have any additional questions or concerns please do not hesitate to call.

Very truly yours;

Jeffrey S. Smith, Esquire

cc: Robert Kilbanks
The Friends of Bob Kilbanks
Jacqueline Kilbanks
Chris Miller

9704385080 2

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2021

1-68/310

Jan. 25 19 95

PAY TO THE ORDER OF Robert Kilbanks $ 1000.00

One Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO

Jacqueline M. Kilbanks

970438508803

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

V 2029

3-68/310

Feb. 2 19 95

PAY TO THE ORDER OF Robert Kilbanks $ 1500.00

One Thousand Five Hundred and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO

Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2050

3-68/310

Feb. 10 19 95

PAY TO THE ORDER OF Robert Kilbanks $ 1000.00

One Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO

Jacqueline M. Kilbanks

ENDORSE HERE

Robert Kilbride REB

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

FEB 95

ENDORSE HERE

Robert Kilbride

0416 76C37

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

JUN 26 95

ENDORSE HERE

Robert P. Kilbride

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

FEB 95

PROCESSED

9704385080 4

2079

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

3-50/310

Feb. 22 1995

PAY TO THE ORDER OF Robert Kilbanks $ 1500.00

One Thousand Five Hundred and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

Jacqueline M. Kilbanks

MEMO

2094

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

3-50/310

March 10, 1995

PAY TO THE ORDER OF Robert Kilbanks $ 1000.00

One Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

Jacqueline M. Kilbanks

MEMO

2120

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

3-50/310

March 16 1995

PAY TO THE ORDER OF Robert Kilbanks $ 1500.00

One Thousand Five Hundred and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

Jacqueline M. Kilbanks

MEMO

9704385080 5

ENDORSE HERE

Robert Killeen

Dr Ric 2127183

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

⑆031000503⑆
First Fidelity NA, PA
CHESTER, PENNA
⑆031000503⑆

FEB 95 28

*FEDERAL RESERVE BOARD OF GOVERNORS REG CC

ENDORSE HERE

Robert Killeen

⑆031000503⑆

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

MAR 1.

*FEDERAL RESERVE BOARD OF GOVERNORS REG CC

ENDORSE HERE

Robert Killeen

548 85415

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

→031000503←
First Fidelity NA PA
CHESTER, PENNA
→031000503←

MAR 95 16

*FEDERAL RESERVE BOARD OF GOVERNORS REG CC

9704385080 6

2140

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

3-50/310

March 31 19 95

PAY TO THE ORDER OF Robert Kilbanks $ 1000.00

One Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

Jacqueline M. Kilbanks

MEMO

2191

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

3-50/310

April 24 19 95

PAY TO THE ORDER OF Robert Kilbanks $ 2000.00

Two Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

Jacqueline M. Kilbanks

MEMO

2226

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

3-50/310

May 10 19 95

PAY TO THE ORDER OF Robert Kilbanks $ 2000.00

Two Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

Jacqueline M. Kilbanks

MEMO

9704385080 7

ENDORSE HERE

Robert Killeen

0306 47463

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

APR 03 '95

COC

APR '95 03

ENDORSE HERE

Robert Killeen

0306 67656

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

APR 24 '95

ENDORSE HERE

Robert D. Killeen

0303 4444-0

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

MAY 10 95

COC

MAY '95

DEPOSITED
SECURITY

*FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

*FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

*FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

9704385080 8

2229

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

3-50/310

May 12 1995

PAY TO THE ORDER OF Robert Kilbanks | $2000.00

Two Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

Jacqueline M. Kilbanks

MEMO

2253

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

3-50/310

May 31 1995

PAY TO THE ORDER OF Robert Kilbanks | $1000.00

One Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

Jacqueline M. Kilbanks

MEMO

2302

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

3-50/310

June 22 1995

PAY TO THE ORDER OF Robert Kilbanks | $1000.00

One Thousand and 00/100 DOLLARS

FIRST FIDELITY

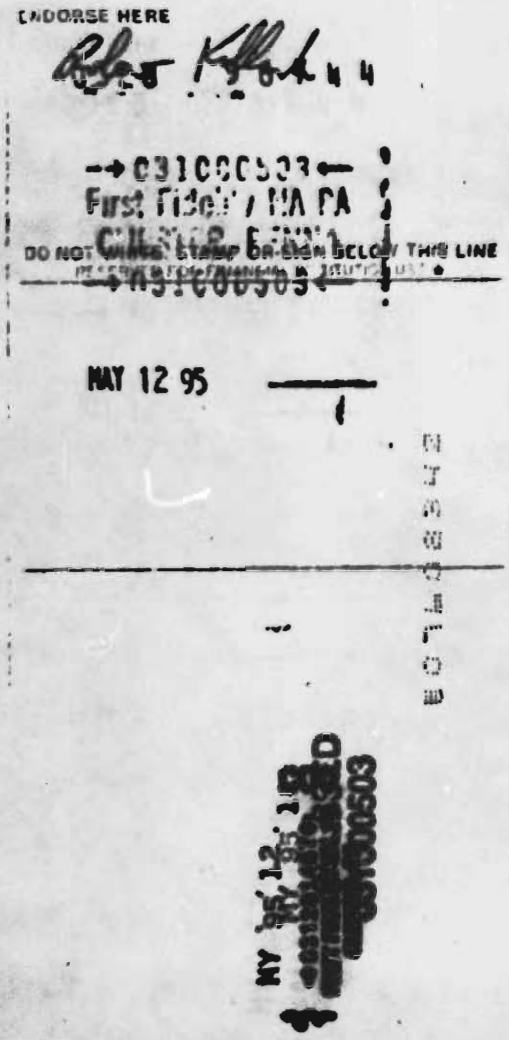
First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

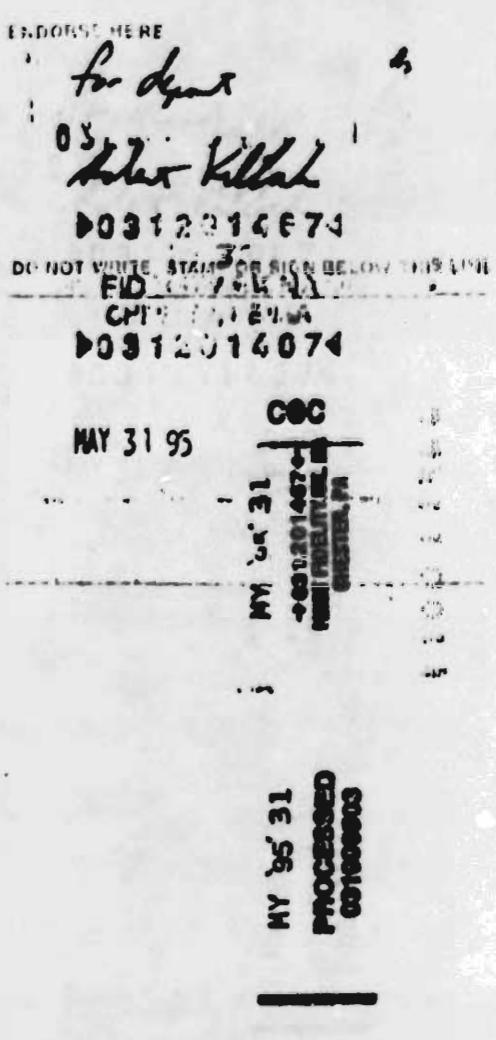
Classic Advantage

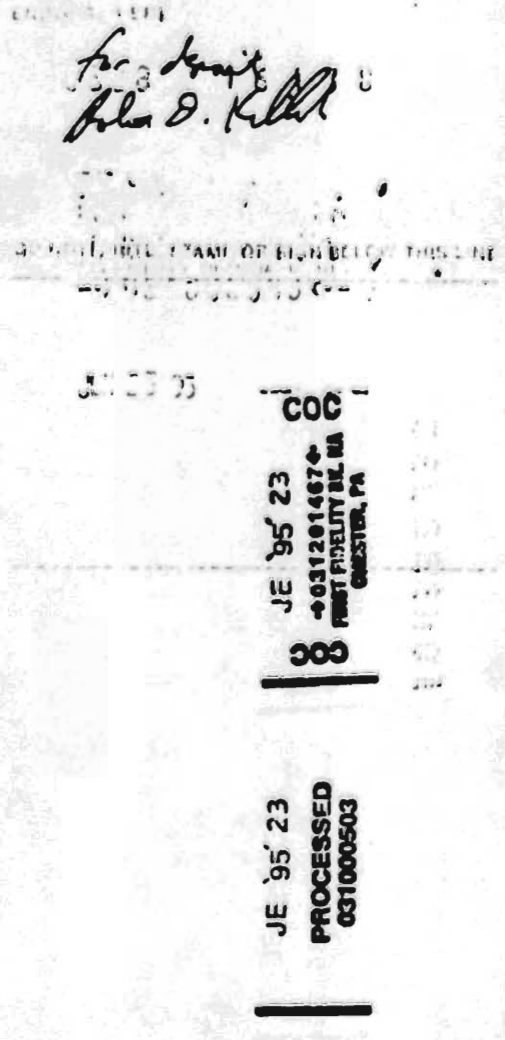
Jacqueline M. Kilbanks

MEMO

9704385080 9







9704385081 0

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2306

3-58/310

June 28 19 95

PAY TO THE ORDER OF Robert Kilbanks | $ 10,000.00

Ten thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO _____

Jacqueline M. Kilbanks

⑈2306⑈ ⑆031000308⑆ 9704385081 1

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2355

3-58/310

July 19 19 95

PAY TO THE ORDER OF Robert Kilbanks | $ 5396.00

Five thousand three hundred ninety-six and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO _____

Jacqueline M. Kilbanks

⑈2355⑈ ⑆031000308⑆ 9704385081 1

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2357

3-58/310

July 24 19 95

PAY TO THE ORDER OF Robert Kilbanks | $ 2000.00

Two thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO _____

Jacqueline M. Kilbanks

⑈2357⑈ ⑆031000308⑆ 9704385081 1

ENDORSE HERE

For deposit only

Robert Kilduff

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

—→031000503←—

First Fidelity NA PA

CHESTER, PENNA

—→031000503←—

JY 24 95

COC

JY 95 24

PROCESSED

031000503

*FEDERAL RESERVE BOARD OF GOVERNORS REC CC

ENDORSE HERE

For deposit only

Robert Kilduff

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

JY 24 95

JY 95 24

PROCESSED

031000503

*FEDERAL RESERVE BOARD OF GOVERNORS REC CC

For deposit only

Robert Kilduff

JY 24 95

JY 95 24

PROCESSED

031000503

9704385081 2

Merrill Lynch

CMA® Cash Management Account® Monthly Statement

Account No.	Taxpayer No.	Page	Statement Period
		5 OF 5	04/01/95 TO 04/28/95

MRS JACQUELINE M KILBANKS
47 N 10TH ST

Summary of Checking Transactions

Check Number	Date Written	Date Cleared	Payee	Amount
147	04/11	04/12	ROBERT KILBANKS	$2,000.00

Total Checking Activity $2,000.00

To report lost/stolen Visa card or checks call the toll-free number 1-800-CMA-LOST (1-800-262-5678).

END OF STATEMENT

April 1995

your Financial Consultant immediately of any discrepancies in securities transactions or investment activity on your statement of account or if you contemplate [illegible] Send all correspondence relating to these matters to the office serving your account. For all other questions about your statement, direct inquiries to CMA-INFO (1-800-262-4636) or in writing to Merrill Lynch CMA Operations, New Brunswick, N.J. 08903-0001. When writing or phoning, please give your [illegible] See other side of page for definitions of key terms.

Merrill Lynch, Pierce, Fenner & Smith Inc.
Member Securities Investor Protection Corporation (SIPC)

We urge you to keep this statement with your investment records.

Code 7097R (RO

Merrill Lynch

CMA Cash Management Account® Monthly Statement

Account No.	Taxpayer No	Page	Statement Period
		4 OF 4	07/29/95 TO 08/25/95

MRS JACQUELINE M KILBANKS
47 N 10TH ST

Check Number	Date Written	Date Cleared	Payee	Amount
201	08/10	08/11	ROBERT KILBANKS	$4,000.00 ✓

Total Checking Activity

To report lost/stolen Visa card or checks call the toll-free-number 1-800-CMA-LOST (1-800-262-5678).

END OF STATEMENT

Please advise your Financial Consultant immediately of any discrepancies in securities transactions or investment activity on your statement of account or if you no longer wish your account to be managed on a discretionary basis. All communications relating to these matters should be directed to the office serving your account. For all other questions and/or requests, please inquire by telephone to 1-800-CMA-2662 (1-800-262-2662) or in writing to Merrill Lynch CMA Operations, New Brunswick, N.J. 08903-9086. When making inquiries, please give your account number. See back of page for definitions of key terms.

Merrill Lynch, Pierce, Fenner & Smith Inc.
Member, Securities Investor Protection Corporation (SIPC)

Code 7597R (9/

2413

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

Aug. 30 19 95

PAY TO THE ORDER OF Robert Kilbanks $1500.00

One Thousand Five Hundred and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO

Jacqueline M. Kilbanks

2451

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

DATE Sept. 20, 1995

PAY TO THE ORDER OF Robert Kilbanks $2000.00

Two Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO

Jacqueline M. Kilbanks

2503

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

DATE Oct. 17, 1995

PAY TO THE ORDER OF Robert Kilbanks $2000.00

Two Thousand and 00/100 DOLLARS

FIRST FIDELITY

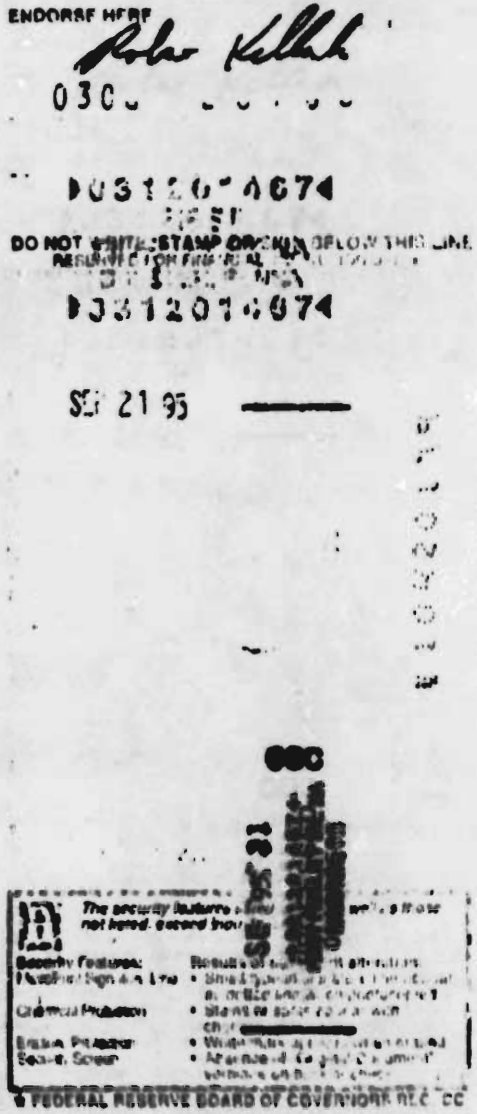
First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO

Jacqueline M. Kilbanks

9704385081 5



9704385081 6

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2521

DATE Oct. 30, 1995 3-50/310

PAY TO THE ORDER OF Robert Kilbanks $ 1500.00

one thousand five hundred and 00/100 DOLLARS

FIRST FIDELITY First Fidelity Bank, N.A. Easton Centre Square Office Northampton And South Third Streets Easton, PA 18042 Classic Advantage

MEMO _____ Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2541

DATE Nov. 8, 1995 3-50/310

PAY TO THE ORDER OF Robert Kilbanks $ 1500.00

one thousand five hundred and 00/100 DOLLARS

FIRST FIDELITY First Fidelity Bank, N.A. Easton Centre Square Office Northampton And South Third Streets Easton, PA 18042 Classic Advantage

MEMO _____ Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2569

DATE Nov. 25, 1995 3-50/310

PAY TO THE ORDER OF Robert Kilbanks $ 1000.00

one thousand and 00/100 DOLLARS

FIRST FIDELITY First Fidelity Bank, N.A. Easton Centre Square Office Northampton And South Third Streets Easton, PA 18042 Classic Advantage

MEMO _____ Jacqueline M. Kilbanks

9704385081 7

ENDORSE HERE

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

NOV 24 95

The security features listed on the back of this document must be present

* FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

ENDORSE HERE

338.0

Law Support

Robert Fitzpatrick

acct: 000 SP HOBBS

CHARLOTTE, NC

→031000503←

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

NOV -8 95

The security features listed on the back of this document must be present

* FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

ENDORSE HERE

0305 55052

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

CHARLOTTE, NC

→031000503←

NOV 24 95

The security features listed on the back of this document must be present

* FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

970438508 18

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2574

DATE Nov. 30, 1995 3-50/310

PAY TO THE ORDER OF Robert Kilbanks $2000.00

Two Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO _____

Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2595

DATE Dec. 11, 1995 3-50/310

PAY TO THE ORDER OF Robert Kilbanks $1000.00

One Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO _____

Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2632

DATE Dec. 22, 1995 3-50/310

PAY TO THE ORDER OF Robert Kilbanks $1000.00

One Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO _____

Jacqueline M. Kilbanks

9704385081 9

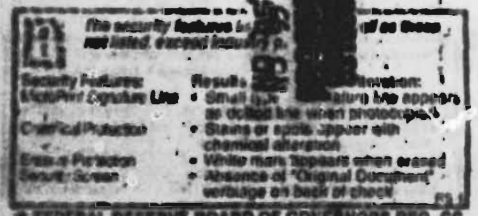
ENDORSE HERE

Robert Kilbride

032

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

NOV 30 95

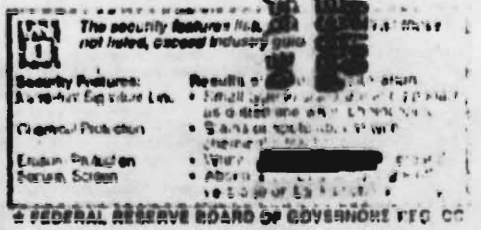


ENDORSE HERE

Robert Kilbride

4618

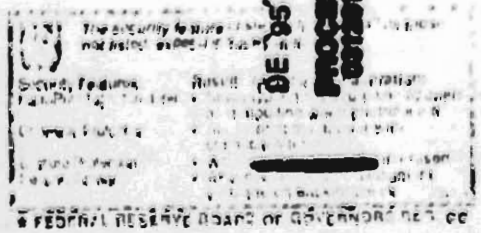
DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE



ENDORSE HERE

Robert Kilbride

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE



9704385082O

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

2641

DATE Nov 29, 1995

PAY TO THE ORDER OF Robert Kilbanks $2000.00

Two Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

Classic Advantage

MEMO

Jacqueline M. Kilbanks

9704385082 1

9704385082 2

Jacqueline Kilbanks

Form 709 12/31/95

Schedule A, Part 1

		Donor's Adjusted Basis of Gift	Date of Gift	Value Date of Gift
1.	Robert Kilbanks, Sen 911 Northampton Street Easton, PA 18042	$1,000	01/25/95	$1,000
		$1,500	02/02/95	$1,500
		$1,000	02/10/95	$1,000
		$1,500	02/27/95	$1,500
	$65,388 Cash	$1,000	03/10/95	$1,000
		$1,500	03/18/95	$1,500
		$1,000	03/31/95	$1,000
		$2,000	04/11/95	$2,000
		$2,000	04/24/95	$2,000
		$2,000	05/10/95	$2,000
		$2,000	05/12/95	$2,000
		$1,000	05/31/95	$1,000
		$1,000	08/22/95	$1,000
		$10,000	08/28/95	$10,000
		$5,388	07/19/95	$5,388
		$2,000	07/24/95	$2,000
		$4,000	08/10/95	$4,000
		$1,500	08/30/95	$1,500
		$2,000	09/20/95	$2,000
		$2,000	10/17/95	$2,000
		$1,500	10/30/95	$1,500
		$1,500	11/08/95	$1,500
		$1,000	11/25/95	$1,000
		$2,000	11/30/95	$2,000
		$1,000	12/11/95	$1,000
		$1,000	12/22/95	$1,000
		$2,000	12/29/95	$2,000

9704385082 3

Jeffrey S. Smith, Esquire
I.D. # 60204
2704 William Penn Highway
Easton, PA 18042
(610) 258-7899

James Frederick Brose	:	No. MUR 4353
vs.	:	
Robert D. Kilbanks and Friends of Bob Kilbanks	:	

AFFIDAVIT

Robert D. Kilbanks, being duly sworn according to the law, deposes and says that he has customarily received gifts of a personal nature (checks in varying amounts) from his mother, Jacqueline M. Kilbanks, as least as far back as 1990. Said gifts were given to divest his mother's estate and were further provided long before he decided to run for political office.

By: Robert D. Kilbanks
Robert D. Kilbanks

Signed and sworn before me this 25th day of July, 1996.

Suzanne K. Smith
Notary

Notarial Seal
Suzanne K. Smith, Notary Public
Palmer Twp., Northampton County
My Commission Expires Aug. 9, 1999
Member, Pennsylvania Association of Notaries

9704385082 4

Jeffrey S. Smith, Esquire
I.D. # 60204
2704 William Penn Highway
Easton, PA 18042
(610) 258-7899

James Frederick Brose	:	No. MUR 4353
vs.	:	
Robert D. Kilbanks and Friends of Bob Kilbanks	:	

AFFIDAVIT

Jacqueline M. Kilbanks being duly sworn according to the law, deposes and says that she has customarily given gifts of a personal nature (checks in varying amounts) to her son, Robert D. Kilbanks, at least as far back as 1990. Said gifts were given to divest her estate and were provided long before she was aware of her son's inteations to run for political office.

By: Jacqueline M. Kilbanks
Jacqueline M. Kilbanks

Signed and sworn before me this 26th day of July, 19 96.

Suzanne K Smith
Notary

Notarial Seal
Suzanne K. Smith, Notary Public
Palmer Twp., Northampton County
My Commission Expires Aug. 9, 1999
Member, Pennsylvania Association of Notaries

970438508825

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR: 4353
DATE COMPLAINT FILED: 5/2/96
DATE OF NOTIFICATION: 5/7/96
DATE ACTIVATED: 5/30/96

STAFF MEMBER: Frances B. Hagan

COMPLAINANT: James F. Brose

RESPONDENTS: Robert D. Kilbanks
Jacqueline Kilbanks
Friends of Bob Kilbanks
Chris M. Miller, Treasurer

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(1)(a)
2 U.S.C. § 441a(f)
11 C.F.R. § 110.10

INTERNAL REPORTS CHECKED: Disclosure Reports, Advisory Opinions

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

Complainant James F. Brose alleges that candidate Robert D. Kilbanks, complainant's 1996 primary election opponent (15CD/PA), and the Friends of Bob Kilbanks Committee ("Committee") and Chris M. Miller, as treasurer, accepted excessive contributions from Mr. Kilbanks' mother in violation of FECA limits. 2 U.S.C. § 441a.

Relying on respondent Robert Kilbanks' 1995 Financial Disclosure Statement filed pursuant to the ethics law (January 1, 1995 - September 22, 1995), complainant states that during the 20 months prior to filing this statement, respondent reported income of $39,479 from two job

9704385082 6

sources, annual rental income of $1,000 to $2,500, and checking account deposits between $1,000 and $15,000 which generated interest between $1 and $200 in 1995. See Complaint attachment. Counsel for the respondents provided the candidate's 1996 Financial Disclosure Statement (January 1, 1996 - May 15, 1996), reporting earned income of $36,500 in 1995, and $19,400 in the first half of 1996. The statement shows rental property valued between $100,001 and $250,000 with "overdue" rental income between $5,001 and $15,000. A bank account in Charlotte, North Carolina, is listed with deposits of $1,001 to $15,000, earning interest between $0 and $200. Attachment A, pp. 4-7.

Against this income background, complainant points out that the Committee's 1996 12-day Pre-Primary Report shows the candidate contributed and loaned $47,700 to his campaign committee.[1] Referring to newspaper articles, complainant states that Mr. Kilbanks funded his campaign during 1996 with a $40,000 gift from his mother, Jacqueline Kilbanks. Complainant alleges this gift constitutes an excessive contribution to the Committee in violation of the limitations of the Federal Election Campaign Act of 1971, as amended, ("the Act").

In response to the complaint, counsel for the respondents states that the monetary gift was one of several "customary gifts" dating back as far as 1991, before the candidate's bids for federal office in 1994 and 1996.[2] As such, counsel argues, the funds from Mr. Kilbanks' mother's annual divestitures are personal funds that the candidate may use to make unlimited campaign expenditures.

9704385082 7

---

1 The 1996 July 15 Quarterly Report Amendment shows year-to-date candidate contributions of $37,620, and candidate loans of $10,000.

2 Mr. Kilbanks won the Republican primary held April 23, 1996 with 38% of the vote. He lost the 1994 primary election with 32% of the vote. Although he was on the ballot, Mr. Kilbanks' 1994 receipts and expenditures apparently did not reach the reporting threshold as he did not file a Statement of Candidacy designating a campaign committee.

II. FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441a(a)(1)(A) makes it unlawful for any person to make a contribution to a candidate for federal office or to his or her campaign committee in excess of $1,000 per election. According to Advisory Opinion 1991-10, "This limitation applies to the spouse or family member of a candidate . . . ." Candidates and political committees are prohibited from knowingly accepting any contribution in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

Commission regulations, however, permit candidates for federal office to make unlimited expenditures from personal funds. 11 C.F.R. § 110.10(a). Personal funds are defined as any assets which, under the applicable state law, the candidate had legal right of access to or control over, coupled with either legal and rightful title, or an equitable interest at the time he or she became a candidate. 11 C.F.R. § 110.10(b)(1). Personal funds also include salary and other income earned from bonafide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; and income from trusts established by bequest after candidacy of which the candidate is the beneficiary. 11 C.F.R. § 110.10(b)(2). Gifts to a candidate are contributions which are subject to the Act's limitations, unless similar gifts customarily had been given prior to candidacy. 2 U.S.C. § 431(8)(A), 11 C.F.R. § 110.10(b)(2).

Advisory Opinion 1988-7 states that partly based on the fact that an individual was not a candidate for federal office in the two preceding election cycles, the parental gifts made in each of three years before the individual became a candidate were personal rather than made in anticipation of a campaign for federal office. As a result, the repetitious custom of such gifts led

9704385082 8

documented evidence of gifts beginning in 1990. The supporting documents include numerous canceled checks and money fund account statements showing the following gifts:[3]

YEAR	AMOUNT
1990	
1991	
1992	
1993	
1994	
1995	$55,396.00

The monetary gifts to Mr. Kilbanks increased significantly in amount and frequency in the years just before and during his congressional races; yet the gifts are not necessarily clustered near election dates.[4] Instead, during 1993 - 1995, the amounts and dates of the checks were generally consistent through the year, a pattern perhaps more indicative of paying living expenses than of giving direct campaign aid.

However, in 1995 alone, Mrs. Kilbanks' gifts to her son increased

9704385082 9

---

3 Mrs. Kilbanks provided copies of gift tax returns filed in April 1996 for gifts made from 1992 through 1995. Attachment B, pp. 54-69.

4 Mrs. Kilbanks also gave $10,000 in June 1995 although the primary was not held until April 1996. We have no supporting documents relating to Mrs. Kilbanks' 1996 gifts.

averaging more than $4,000 per month in two or three payments each month. The 1995 gifts exceeded his earned income that year by $18,896 ($55,396 gifts - $36,500 income).

Regarding the gift amounts, respondents state that Mrs. Kilbanks -- satisfied that her assets were sufficient to provide for her lifetime needs -- "[o]ver the years . . . adjusted the amount of the gifts." Attachment A, p. 2. In sworn statements, both Jacqueline Kilbanks and Robert Kilbanks attest that the gifts were "customarily given" (or "received)," that the gifts were "of a personal nature . . . in varying amounts," and were provided "long before" he decided to run or she was aware of his intentions to run for political office. Attachment B, pp. 70-71.

In contrast, previous statements appear to contradict this assertion. As recently as April 9, 1996, Mrs. Kilbanks indicated her intentions for the gifts to her son. According to a newspaper account, "[Kilbanks'] mother said that, when she first gave him such a gift in 1993, she did so believing he might use it for his campaign. 'Maybe in the back of my mind I probably had that thought' . . . ." See Complaint attachment. Further, Mr. Kilbanks is quoted in an April 1996 newspaper article as saying he was able to lend his campaign [money] thanks to gifts from his mother. He said "any amount of financial sacrifice is worth it." Attachment A, 10.

III. SUMMARY AND PROPOSED DISCOVERY

The dramatic increase in pre-election and election year parental funding suggests that the monies were provided in anticipation of the Kilbanks candidacy, and respondents' statements confirm the intended campaign use. Although Mrs. Kilbanks gave her son monetary gifts in 1990 and 1992 before he became a candidate, these early gifts do not conform to the "repetitious custom" of giving contemplated in AO 1988-7 when compared to the continuous election-cycle pattern. Regardless of the reason Mrs. Kilbanks' funds were available, the amount and timing of

9704385083O

parental gifts strongly indicate she intended to aid the campaign effort by freeing the candidate's time and funds for use in the campaign. Based on the available evidence, Jacqueline Kilbanks' gifts to her son appear to be political contributions which exceeded the statute's limitations, rather than personal funds to be used at the candidate's discretion. See 2 U.S.C. §§ 431(8)(A) and 441a. Therefore, the Office of the General Counsel recommends that the Commission find reason to believe that Robert Kilbanks, the Friends of Bob Kilbanks Committee and Chris M. Miller, as treasurer, violated 2 U.S.C. § 441a(f), and Jacqueline Kilbanks violated 2 U.S.C. § 441a(a)(1)(A).

The complaint responses and the contributions-versus-personal-funds issue raise many questions. For example, respondents have provided no information regarding Mr. Kilbanks' financial status and income before he began running for office. Such information would establish how his income and expenses differed before and after receiving his mother's money. It is also necessary to determine what specific information prompted the timing and amount of each check Mrs. Kilbanks wrote during the month. That is, did the candidate provide bills for her to pay, or did he ask verbally for a certain level of stipend? Furthermore, is Mr. Kilbanks the only beneficiary (e.g. child, grandchild, in-law, sibling) receiving a proportionate amount of her divestitures? If not, how do those gifts compare to the candidate's?[5]

In an effort to answer these questions expeditiously, this Office recommends that the Commission approve the attached Subpoenas to depose Robert Kilbanks and Jacqueline Kilbanks. Attachment C. The attached Subpoenas also seek additional documents related to the

[5] On July 7, 1994, Jacqueline Kilbanks' Merrill Lynch cash management account shows $500 going to a Carol Kilbanks, but only her son's name appears as a recipient of large gifts on her gift tax returns. Attachment B, 24.

9704385083 1

unanswered questions, including the candidate's income tax records and documentation upon which Jacqueline Kilbanks relied to determine the amount and date of specific checks to her son.

IV. RECOMMENDATIONS

1. Find reason to believe that Jacqueline Kilbanks violated 2 U.S.C. § 441a(a)(1)(A).

2. Find reason to believe that Robert D. Kilbanks, the Friends of Bob Kilbanks Committee, and Chris M. Miller, as treasurer, violated 2 U.S.C. § 441a(f).

3. Authorize the attached Subpoenas for depositions and documents to Jacqueline Kilbanks and Robert D. Kilbanks.

4. Approve the attached Factual and Legal Analysis and the appropriate letter.

Lawrence M. Noble
General Counsel

10/11/96
Date

BY: _____
Lois G. Lerner
Associate General Counsel

Attachments:
A. and B. Respondents' responses to the complaint
C. Factual and Legal Analysis
D. Subpoenas for depositions and documents

9704385083 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Robert D. Kilbanks;	)	MUR 4353
Jacqueline Kilbanks;	)	
Friends of Bob Kilbanks and Chris M. Miller, Treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 18, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4353:

1. Find reason to believe that Jacqueline Kilbanks violated 2 U.S.C. §441a(a)(1)(A).

2. Find reason to believe that Robert D. Kilbanks, the Friends of Bob Kilbanks Committee, and Chris M. Miller, as treasurer, violated 2 U.S.C. §441a(f).

(continued)

9704385083 3

3. Authorize the Subpoenas for depositions and documents to Jacqueline Kilbanks and Robert D. Kilbanks, as recommended in the General Counsel's Report dated October 11, 1996.

4. Approve the Factual and Legal Analysis and the appropriate letter, as recommended in the General Counsel's Report dated October 11, 1996.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

10-21-96
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Tues., Oct. 15, 1996	11:20 a.m.
Circulated to the Commission:	Tues., Oct. 15, 1996	4:00 p.m.
Deadline for vote:	Fri., Oct. 18, 1996	4:00 p.m.

bjr

97043850834

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 30, 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeffrey S. Smith, Esquire
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, Pennsylvania 18045

RE: MUR 4353
Robert D. Kilbanks
Jacqueline Kilbanks

Dear Mr. Smith:

On May 7, 1996, the Federal Election Commission notified your clients, Robert D. Kilbanks, the Friends of Bob Kilbanks Committee and Chris M. Miller, as treasurer, and Jacqueline Kilbanks of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was enclosed with each notification.

Upon further review of the allegations contained in the complaint and information you supplied, the Commission, on October 18, 1996, found that there is reason to believe Robert D. Kilbanks, the Friends of Bob Kilbanks Committee and Chris M. Miller, as treasurer, violated 2 U.S.C. § 441a(f), and that Jacqueline Kilbanks violated 2 U.S.C. § 441a(a)(1)(A), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Pursuant to its investigation of this matter, the Commission has issued the attached subpoenas requiring your clients, Robert D. Kilbanks and Jacqueline Kilbanks, to produce documents, and to appear and give sworn testimony which will assist the Commission in carrying out its statutory duty of supervising compliance with the Act. Details regarding the documents and depositions are provided on the attached subpoenas.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the respondents. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Subpoena to Produce Documents must be submitted to the General Counsel's Office within 15 days of your receipt of the letter. Any additional materials or statements you wish to submit should accompany the response to the subpoenas.

2704385083 5

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $40.00 plus mileage. Subsequent to the deposition, your clients will be sent a check for the witness fee and mileage.

Within two days of your receipt of this notification, please confirm the scheduled appearance with Frances B. Hagan, the staff member assigned to this matter at (202) 219-3400.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Subpoenas
Factual and Legal Analysis

9704385083 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 4353

SUBPOENA

TO: Robert D. Kilbanks

c/o Jeffrey S. Smith, Esquire
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, Pennsylvania 18045

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to MUR 4353. Notice is hereby given that the deposition is to be taken on November 22, 1996, in the offices of Slifer, Voice & Shade, court reporters, at 1228 Walnut Street, Allentown, Pennsylvania, beginning at 1 p.m., and continuing that day as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the documents listed on the attachment to this subpoena. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 15 days of receipt of this Subpoena.

9704385083 7

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this 30th day of October, 1996.

For the Commission,

Lee Ann Elliott
Chairman

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Document request: 1 page

9704385088

DEFINITIONS

For the purpose of these discovery requests, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, electronic mail messages, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

DOCUMENT REQUEST

1. Identify and produce copies of your Federal income tax returns covering the period from January 1, 1990, to the present.

2. Identify and produce all documents that formed the basis for determining the timing and amounts of Jacqueline Kilbanks' payments to you from January 1, 1990, to the present, i.e. invoices, financial statements, budgets, correspondence, memoranda, advertisement scripts, calendars, diaries, etc.

9704385089

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 4353

SUBPOENA

TO: Jacqueline Kilbanks

c/o Jeffrey S. Smith, Esquire
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, Pennsylvania 18045

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to MUR 4353. Notice is hereby given that the deposition is to be taken on November 22, 1996, in the offices of Slifer, Voice & Shade, court reporters, at 1228 Walnut Street, Allentown, Pennsylvania, beginning at 9:30 a.m., and continuing that day as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the documents listed on the attachment to this subpoena. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 15 days of receipt of this Subpoena.

9704385084 0

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this 30th day of October, 1996.

For the Commission,

Lee Ann Elliott

Lee Ann Elliott
Chairman

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Document request: 1 page

9704385084 1

DEFINITIONS

For the purpose of these discovery requests, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to, budgets, books, letters, contracts, notes, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, electronic mail messages and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

DOCUMENT REQUEST

1. Provide a copy, front and back, if applicable, of all payments you made to your son Robert D. Kilbanks from January 1, 1996, to the present.

2. Identify and produce all documents that formed the basis for determining the timing and amounts of your payments to your son Robert D. Kilbanks from January 1, 1990, to the present, i.e. invoices, financial statements, budgets, correspondence, memoranda, advertisement scripts, calendars, diaries, etc.

9704385084 2

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Robert D. Kilbanks
Jacqueline Kilbanks
Friends of Bob Kilbanks
Chris M. Miller, Treasurer

MUR 4353

COMPLAINT

Complainant James F. Brose alleges that candidate Robert D. Kilbanks, complainant's 1996 primary election opponent (15CD PA), and the Friends of Bob Kilbanks Committee ("Committee") and Chris M. Miller, as treasurer, accepted excessive contributions from Mr. Kilbanks' mother in violation of FECA limits. 2 U.S.C. § 441a.

Relying on respondent Robert Kilbanks' 1995 Financial Disclosure Statement filed pursuant to the ethics law (January 1, 1995 - September 22, 1995), complainant states that during the 20 months prior to filing this statement, respondent reported income of $39,479 from two job sources, annual rental income of $1,000 to $2,500, and checking account deposits between $1,000 and $15,000 which generated interest between $1 and $200 in 1995. Counsel for the respondents provided the candidate's 1996 Financial Disclosure Statement (January 1, 1996 - May 15, 1996), reporting earned income of $36,500 in 1995, and $19,400 in the first half of 1996. The statement shows rental property valued between $100,001 and $250,000 with "overdue" rental income between $5,001 and $15,000. A bank account in Charlotte, North Carolina, is listed with deposits of $1,001 to $15,000, earning interest between $0 and $200.

Against this income background, complainant points out that the Committee's 1996 12-day Pre-Primary Report shows the candidate contributed and loaned $47,700 to his campaign

9704385084 3

committee.[1] Referring to newspaper articles, complainant states that Mr. Kilbanks funded his campaign during 1996 with a $40,000 gift from his mother, Jacqueline Kilbanks. Complainant alleges this gift constitutes an excessive contribution to the Committee in violation of the limitations of the Federal Election Campaign Act of 1971, as amended, ("the Act").

In response to the complaint, counsel for the respondents states that the monetary gift was one of several "customary gifts" dating back as far as 1991, before the candidate's bids for federal office in 1994 and 1996.[2] As such, counsel argues, the funds from Mr. Kilbanks' mother's annual divestitures are personal funds that the candidate may use to make unlimited campaign expenditures.

LAW

2 U.S.C. § 441a(a)(1)(A) makes it unlawful for any person to make a contribution to a candidate for federal office or to his or her campaign committee in excess of $1,000 per election. According to Advisory Opinion 1991-10, "This limitation applies to the spouse or family member of a candidate . . . ." Candidates and political committees are prohibited from knowingly accepting any contribution in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

Commission regulations, however, permit candidates for federal office to make unlimited expenditures from personal funds. 11 C.F.R. § 110.10(a). Personal funds are defined as any assets which, under the applicable state law, the candidate had legal right of access to or control

---

[1] The 1996 July 15 Quarterly Report Amendment shows year-to-date candidate contributions of $32,620, and candidate loans of $10,000.

[2] Mr. Kilbanks won the Republican primary held April 23, 1996 with 38% of the vote. He lost the 1994 primary election with 32% of the vote. Although he was on the ballot, Mr. Kilbanks' 1994 receipts and expenditures apparently did not reach the reporting threshold as he did not file a Statement of Candidacy designating a campaign committee.

9704385084

over, coupled with either legal and rightful title, or an equitable interest at the time he or she became a candidate. 11 C.F.R. § 110.10(b)(1). Personal funds also include salary and other income earned from bonafide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; and income from trusts established by bequest after candidacy of which the candidate is the beneficiary. 11 C.F.R. § 110.10(b)(2). Gifts to a candidate are contributions which are subject to the Act's limitations, unless similar gifts customarily had been given prior to candidacy. 2 U.S.C. § 431(8)(A); 11 C.F.R. § 110.10(b)(2).

Advisory Opinion 1988-7 states that partly based on the fact that an individual was not a candidate for federal office in the two preceding election cycles, the parental gifts made in each of three years before the individual became a candidate were personal rather than made in anticipation of a campaign for federal office. As a result, the repetitious custom of such gifts led the Commission to conclude that a similar gift made the following year during candidacy would be considered personal funds. Advisory Opinion 1988-7, p. 2.

Advisory Opinion 1978-40 states, "The thrust of [11 C.F.R.] 110.10 is that a candidate is expending campaign contributions rather than personal funds, unless the funds involved are assets to which he or she had legal and rightful title . . . at the time he or she became a candidate, or unless the funds were personal assets under Section 110.10(b)(2).

In Advisory Opinion 1982-40, the Commission reiterated several reasons supporting the conclusion that funds obtained from family members "were contributions under the Act: receipt of funds for living expenses would free-up other funds of the candidate for campaign purposes,

9704385084 5

the candidate would have more time to spend on the campaign instead of pursuing his or her usual employment, and the funds would not have been donated but for the candidacy."

Use of Parental Gifts for Campaign Purposes

Committee counsel's response to the complaint states that the candidate "voluntarily and willingly [stated] that he has customarily received gifts from his mother which he chose to contribute to his campaign." With this admission and the supporting evidence provided, the gifts-to-campaign nexus is clearly established. The remaining issue concerns whether Mrs. Kilbanks' payments to her son are personal funds for the candidate's unlimited use or campaign contributions limited by the Act.

Contributions vs. Personal Funds

Respondents state that Jacqueline Kilbanks has been "divesting her estate by gifting substantial amounts" to reduce her estate for tax purposes. Part of this reduction was in the form of monetary gifts to her son, Robert Kilbanks. On July 30, 1996, respondents provided documented evidence of gifts beginning in 1990. The supporting documents include numerous canceled checks and money fund account statements showing the following gifts:

YEAR	AMOUNT
1990	
1991	
1992	
1993	
1994	
1995	$55,396.00

9704385084 6

The monetary gifts to Mr. Kilbanks increased significantly in amount and frequency in the years just before and during his congressional races; yet the gifts are not necessarily clustered near election dates.[3] Instead, during 1993 - 1995, the amounts and dates of the checks were generally consistent through the year, a pattern perhaps more indicative of paying living expenses than of giving direct campaign aid.

However, in 1995 alone, Mrs. Kilbanks' gifts to her son averaging more than $4,000 per month in two or three payments each month. The 1995 gifts exceeded his earned income that year by $18,896 ($55,396 gifts - $36,500 income).

Regarding the gift amounts, respondents state that Mrs. Kilbanks -- satisfied that her assets were sufficient to provide for her lifetime needs -- "[o]ver the years . . . adjusted the amount of the gifts." In sworn statements, both Jacqueline Kilbanks and Robert Kilbanks attest that the gifts were "customarily given" (or "received)," that the gifts were "of a personal nature . . . in varying amounts," and were provided "long before" he decided to run or she was aware of his intentions to run for political office.

In contrast, previous statements appear to contradict this assertion. As recently as April 9, 1996, Mrs. Kilbanks indicated her intentions for the gifts to her son. According to a newspaper account, "[Kilbanks'] mother said that, when she first gave him such a gift in 1993,

---

3 Mrs. Kilbanks also gave $10,000 in June 1995 although the primary was not held until April 1996. We have no supporting documents relating to Mrs. Kilbanks' 1996 gifts.

9704385084 7

she did so believing he might use it for his campaign. 'Maybe in the back of my mind I probably had that thought' . . . ." Further, Mr. Kilbanks is quoted in an April 1996 newspaper article as saying he was able to lend his campaign [money] thanks to gifts from his mother. He said "any amount of financial sacrifice is worth it."

SUMMARY

The dramatic increase in pre-election and election year parental funding suggests that the monies were provided in anticipation of the Kilbanks candidacy, and respondents' statements confirm the intended campaign use. Although Mrs. Kilbanks gave her son monetary gifts in 1990 and 1992 before he became a candidate, these early gifts do not conform to the "repetitious custom" of giving contemplated in AO 1988-7 when compared to the continuous election-cycle pattern. Regardless of the reason Mrs. Kilbanks' funds were available, the amount and timing of parental gifts strongly indicate she intended to aid the campaign effort by freeing the candidate's time and funds for use in the campaign. Based on the available evidence, Jacqueline Kilbanks' gifts to her son appear to be political contributions which exceeded the statute's limitations, rather than personal funds to be used at the candidate's discretion. See 2 U.S.C. §§ 431(8)(A) and 441a. Therefore, there is reason to believe Robert Kilbanks, the Friends of Bob Kilbanks Committee and Chris M. Miller, as treasurer, violated 2 U.S.C. § 441a(f), and Jacqueline Kilbanks violated 2 U.S.C. § 441a(a)(1)(A).

9704385084 8

Law Offices of
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, PA 18045
(610) 258-7899

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Nov 25 9 35 AM '96

Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 4353

FACTUAL OR LEGAL ISSUES RELEVANT FOR CONSIDERATION

1. The Friends of Bob Kilbanks Committee had contacted your commission (The Federal Election Commission), on more than one occasion, to inquire into the legality of accepting the "customary gift" from Mrs. Kilbanks. Each time the Committee was assured that the "gift" would be legal. In fact, the Committee requested all advisory opinions that would assist me, as Solicitor of the Committee, in determining the legality of accepting the "gift". Enclosed you will find the sole opinion that was provided by the staff of the F.E.C.. Clearly, you will see that the facts of the above referenced action parallel those contained in this advisory opinion. Specifically:

   a. The amount - The 1988 Bakel opinion deals with a cash gift. By comparison, the $34,000 1995 gift received by Kilbanks (adjusted for inflation) are comparable;
   b. The circumstances - Neither Mr. Bakal nor Mr. Kilbanks were listed as a candidate for Federal Office in either of the two preceding elections and
   c. The duration of the gifts - Both Mr. Bakal and Mr. Kilbanks received significant gifts for approximately three years. It is important to note that Mr. Kilbanks, in fact, received gifts, in lesser amounts, for a longer period.

2. A review of the tax returns that have been provided, in compliance with the subpoenas that were issued, will clearly demonstrate that the "gifts" were not provided to cover living expenses during this election year. In fact, you will notice, Mr. Kilbanks' earned income actually increased during this election year as well as the preceding year.

3. Mr. Kilbanks was totally unaware that he would be asked to run for Congress in 1996. In fact, Mr. Kilbanks was under the impression that he would assist the 1994 Republican candidate, Jim Yeager, with his anticipated second run for office.

4. A review of Mr. Kilbanks' 1995 and/or 1996 financial disclosure statement(s) will reveal:

   a. That Mr. Kilbanks obtained numerous personal loans, in various amounts, to help finance the final days of his 1995 primary race. This action does not support an accusation that Mr. Kilbanks had intended to violate the F.E.C. Code. In fact, again the Kilbanks Committee

9704385084 9

inquired into the legality of accepting these loans and again the Committee obtained a supporting advisory opinion. These actions are not the actions of a candidate intent on violating the code or of a candidate who is unwilling to comply with the code. These actions clearly demonstrate Mr. Kilbanks' efforts at complying with the code;

b. That Mr. Kilbanks' late 1995 and early 1996 earned income was capable of covering much of his donation to his campaign. Thus the nexus between the "gift" and the political contribution is vague and questionable (specifically in regards to the amount applied from the "gift" to the campaign) and

c. That a portion of the perceived "gift" amount is actually a loan advanced to cover "overdue" rental income that has been listed on the financial statement.

5. Additionally, respondent would also raise the same defenses and arguments that he previously made in other correspondence and/or memorandum submitted in this action. Furthermore, respondent can submit, if required, numerous affidavits that will demonstrate that his decision to run for office in both 1994 and 1996 were spontaneous and unanticipated (by both Mr. and Mrs. Kilbanks). These affidavits along with the continuation of the parental "gifts" will clearly demonstrate "gifts of a personal nature which had been customarily received prior to candidacy".

Should you have any questions or concerns please do not hesitate to call.

Very truly yours;

Jeffrey S. Smith, Esquire

cc: Bob Kilbanks
Jacqueline Kilbanks
Chris Miller

9704385085O

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

March 29, 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1988-7

Peter M. Bakal
437 State Street
Albany, N.Y. 12203

Dear Mr. Bakal:

This responds to your letter of February 5, 1988 requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the use of a cash gift as a personal expenditure.

You state that you are presently an "undeclared candidate" for the United States House of Representatives from New York. Commission records do not indicate that you were a candidate for Federal office in either 1984 or 1986. You explain that during each of the last three years, 1985 through 1987, your parents gave you a $20,000 cash gift and that you anticipate your parents will give you another $20,000 gift in 1988.

You ask whether you may contribute these monetary gifts to your campaign as personal funds even if you have not received the 1988 gift before you become a 1988 Congressional candidate and "file for candidacy."1/

The Act prohibits any person from making contributions to any candidate or the candidate's authorized political committees with respect to any election for Federal office which, in the

1/ The Commission cautions that an individual becomes a candidate under the Act when that individual receives contributions or makes expenditures in excess of $5,000. 2 U.S.C. §431(2)(A), 11 CFR 100.3(a)(1). Any contributions such as a gift, loan, advance, deposit of money, in-kind contribution or anything of value made by any person for the purpose of influencing any election for Federal office, will count towards this $5,000 threshold. 11 CFR 100.7(a). Further, any expenditures will also count towards the $5,000 expenditure threshold for triggering candidate status. 11 CFR 100.8(a).

9704385085 1

aggregate, exceed $1,000. 2 U.S.C. §441a(a)(1)(A). Commission regulations, however, permit candidates for Federal office to make unlimited campaign expenditures from personal funds. 11 CFR 110.10(a).2/ "Personal funds" include salary and other income earned from bonafide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is the beneficiary; and gifts of a personal nature which had been customarily received prior to candidacy. 11 CFR 110.10(a)(2). These regulations were intended to reflect the Supreme Court's decision in Buckley v. Valeo, 424 U.S. 1, 52 (1976).

Based on your statements and the fact that you were not a candidate for Federal office in 1984 or 1986, the $20,000 cash gifts you received for the years 1985 through 1987 appear to be of a personal nature, rather than made in anticipation of or related to any campaign for Federal office. Accordingly, the Commission concludes that those gifts represent personal funds and are not subject to the contribution limits under the Act. Moreover, because the receipt of $20,000 per year from your parents in 1985, 1986, and 1987 indicates a repetitious custom of monetary gifts to you, apparently without regard to your possible candidacy for Federal office, the Commission concludes that another $20,000 cash gift under similar circumstances from your parents during 1988 will similarly be considered your personal funds regardless of whether you receive it before or after you become a candidate.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. §437f.

Sincerely yours,

Thomas J. Josefiak
Chairman for the
Federal Election Commission

2/ Presidential candidates who accept Federal payments under chapters 95 or 96 of the Internal Revenue Code are subject to limits on campaign expenditures from their personal funds. 26 U.S.C. §§ 9004(d), 9035.

9704385085 2

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1156

March 11, 1996

3-50/310

PAY TO THE ORDER OF Robert Kilbanks $2100.00

Two Thousand 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

MEMO

Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1186

March 14, 1996

3-50/310

PAY TO THE ORDER OF Robert Kilbanks $10,000.00

Ten Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

MEMO

Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1009

March 29, 1996

3-50/310

PAY TO THE ORDER OF Robert Kilbanks $2000.00

Two Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

MEMO

Jacqueline M. Kilbanks

9704385085 53

ENDORSE HERE For Deposit Only
Robert Kilbride

0314 4996

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

MAR 11 96

[redacted]

The security features listed above are not listed, exceed industry standards.

Security Features:
MicroPrint Signature Line
Chemical Protection
Erasure Protection
Security Screen

Results of Security Operation
• Small [illegible] signature line appears as dotted line when photocopied
• Stains or spots appear with chemical alteration
• White mark appears when erased
• Absence of "Origins Encrypted" verbiage on back of check

★ FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

ENDORSE HERE
Robert Kilbride

[illegible] 50287

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

[illegible]

[redacted]

The security features listed above are not listed, exceed industry standards.

Security Features:
MicroPrint Signature Line
Chemical Protection
Erasure Protection
Security Screen

Results of Security Operation
• Small [illegible] signature line appears as dotted line when photocopied
• Stains or spots appear with chemical alteration
• White mark appears when erased
• Absence of "Origins Encrypted" verbiage on back of check

★ FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

ENDORSE HERE
Robert Kilbride

[illegible] 50287

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

[illegible]

[redacted]

The security features listed above are not listed, exceed industry standards.

Security Features:
MicroPrint Signature Line
Chemical Protection
Erasure Protection
Security Screen

Results of Security Operation
• Small [illegible] signature line appears as dotted line when photocopied
• Stains or spots appear with chemical alteration
• White mark appears when erased
• Absence of "Origins Encrypted" verbiage on back of check

★ FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

9704385084

9704385085 5

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1118

DATE Feb. 26, 1996 3-50/310

PAY TO THE ORDER OF Robert Kilbanks $20,000.00

Twenty thousand and 00/100 DOLLARS

FIRST FIDELITY First Fidelity Bank, N.A. Easton Centre Square Office Northampton And South Third Streets Easton, PA 18042

MEMO _____ Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1131

DATE Feb. 29, 1996 3-50/310

PAY TO THE ORDER OF Robert Kilbanks $1000.00

One thousand and 00/100 DOLLARS

FIRST FIDELITY First Fidelity Bank, N.A. Easton Centre Square Office Northampton And South Third Streets Easton, PA 18042

MEMO Loan Pd. & self Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1140

DATE March 1, 1996 3-50/310

PAY TO THE ORDER OF Robert Kilbanks $2500.00

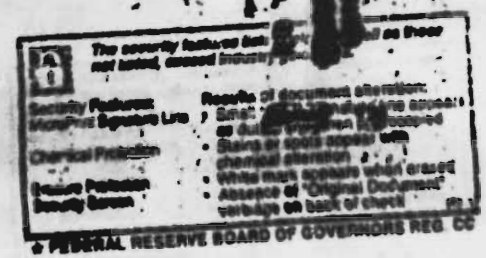
Two thousand five hundred and 00/100 DOLLARS

FIRST FIDELITY First Fidelity Bank, N.A. Easton Centre Square Office Northampton And South Third Streets Easton, PA 18042

MEMO Pd N. Jacqueline M. Kilbanks

ENDORSE HERE

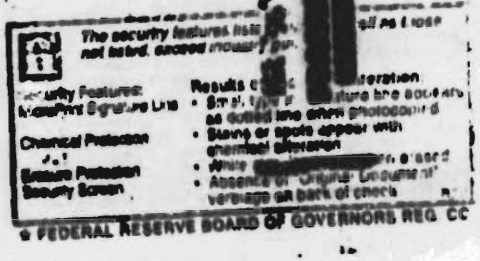
DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE



* FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

ENDORSE HERE

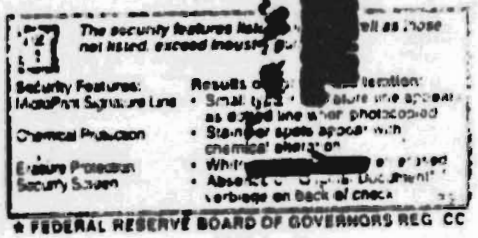
DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE



* FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

ENDORSE HERE

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE



* FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

9704385085 6

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1077

DATE Feb. 1, 1996

3-50/310

PAY TO THE ORDER OF Robert Kilbanks $ 1500.00

One Thousand Five Hundred and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

MEMO _____

Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1108

DATE Feb. 15, 1996

3-50/310

PAY TO THE ORDER OF Robert Kilbanks $ 1000.00

One Thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

MEMO _____

Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1117

DATE Feb. 22, 1996

3-50/310

PAY TO THE ORDER OF Robert Kilbanks $ 600.00

Six Hundred and 00/100 DOLLARS

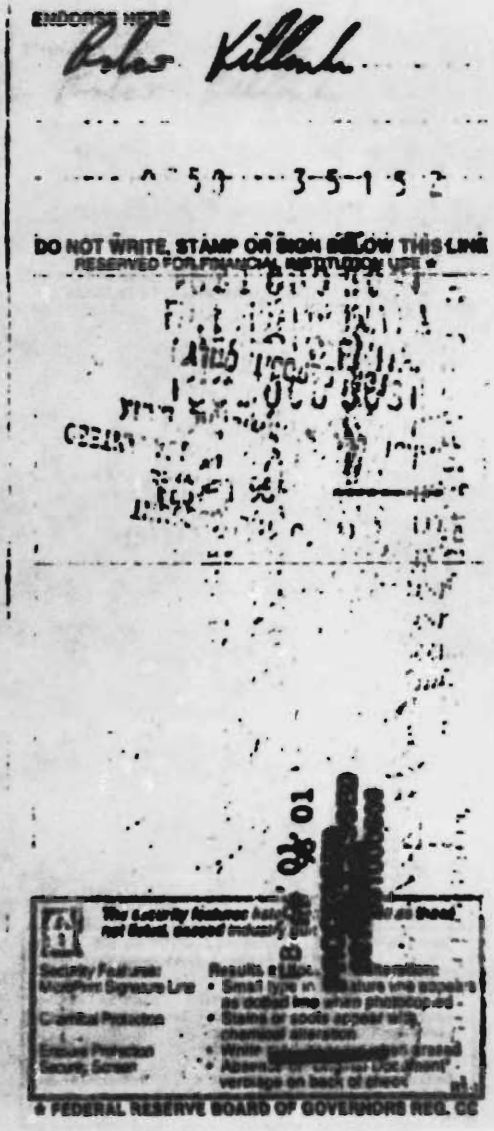
FIRST FIDELITY

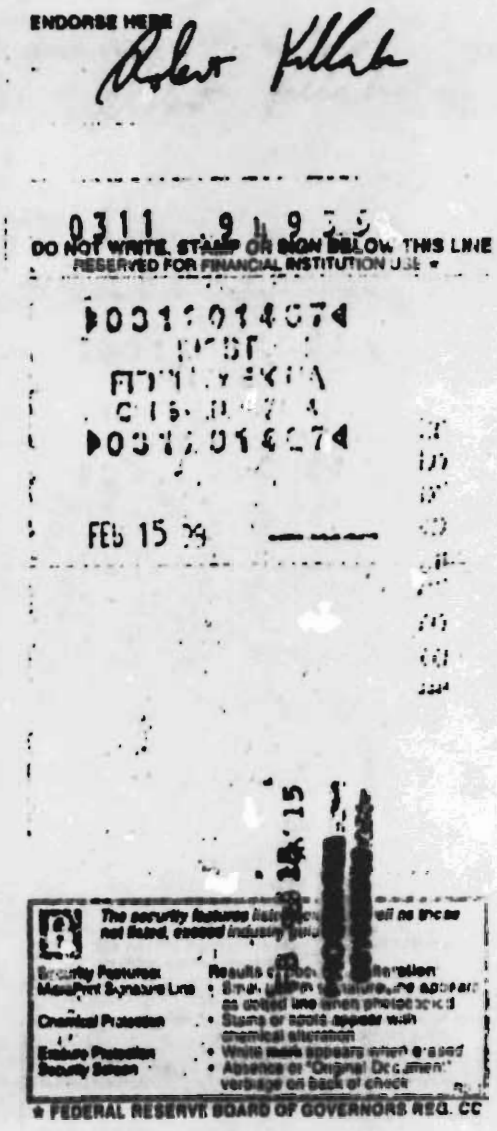
First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

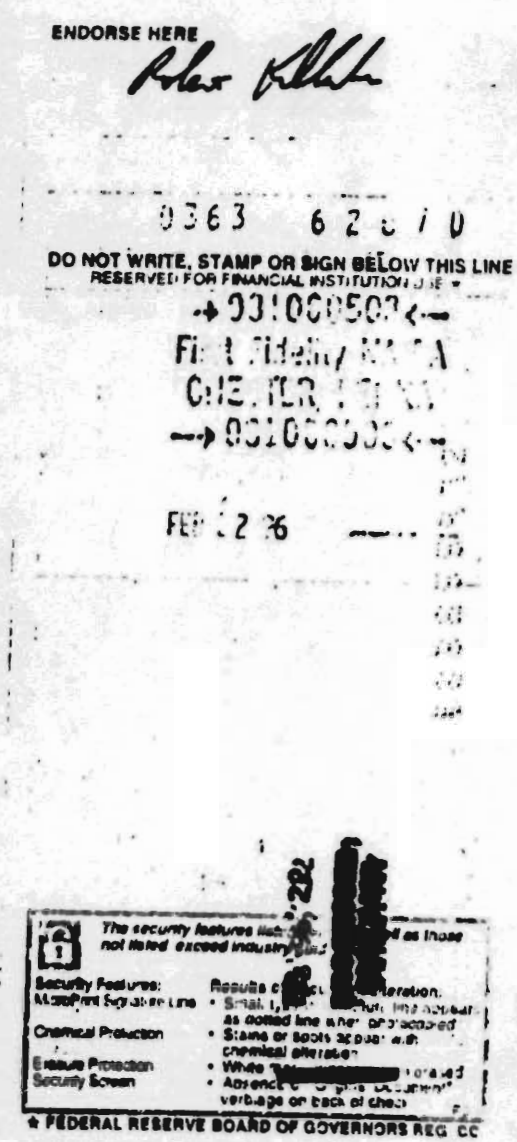
MEMO _____

Jacqueline M. Kilbanks

9704385085 57







9704385085 8

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1027

DATE Jan. 3, 1996

PAY TO THE ORDER OF Robert Kilbanke $ 3000.00

Three thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

MEMO

Jacqueline M. Kilbanke

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1063

DATE Jan. 21, 1996

PAY TO THE ORDER OF Robert Kilbanke $ 1500.00

One thousand five hundred and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

MEMO

Jacqueline M. Kilbanke

JACQUELINE M. KILBANKS
47 NORTH TENTH ST.
EASTON, PA 18042

1076

DATE Jan. 31, 1996

PAY TO THE ORDER OF Robert Kilbanke $ 2000.00

Two thousand and 00/100 DOLLARS

FIRST FIDELITY

First Fidelity Bank, N.A.
Easton Centre Square Office
Northampton And South Third Streets
Easton, PA 18042

MEMO

Jacqueline M. Kilbanke

2704385085 9

ENDORSE HERE

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE *

* FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

ENDORSE HERE

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE *

* FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

ENDORSE HERE

0318 29177

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE *

* FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

9704385086

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

85 NOV 25 P3:08

November 22, 1985

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1985-33

Honorable Cardiss Collins
Citizens to Re-Elect Cardiss Collins
210 Seventh Street, S.E.
Suite 1985/C
Washington, D.C. 20003

Dear Representative Collins:

This responds to your letter of October 3, 1985, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the reporting of loans by your principal campaign committee.

You state that there are "entities" that are willing to make personal loans to you as a candidate but are not willing to make loans to your principal campaign committee, Citizens to Re-Elect Cardiss Collins.1/ You state that you in turn wish to loan these funds to your committee. You add that as a Member of Congress the personal loans to you are reportable in your financial disclosure report.2/

You ask whether your committee may report the receipt of these funds as a personal loan from the candidate to the committee.

Commission regulations permit a candidate to make unlimited contributions, including loans, from the candidate's personal funds to her authorized committees. See 11 CFR 110.10(a) and

1/ Your principal campaign committee reported the receipt of $38,660 in contributions during the period of January 1, 1985, through June 30, 1985. You filed your Statement of Candidacy on September 26, 1985. See 2 U.S.C. §431(2) and 11 CFR 100.3.

2/ This report is filed with the Clerk of the House of Representatives pursuant to the Ethics In Government Act of 1978, 2 U.S.C. §701 et seq. The Commission does not address any questions regarding the filing of your financial disclosure report since such questions are not within its jurisdiction.

9704385086 1

Advisory Opinion 1984-60.3/ Such loans are reportable by the committee as loans made to the committee by the candidate. See 2 U.S.C. §434(b)(2)(G) and (3)(E); 11 CFR 104.3(a)(3)(vii) and 104.3(a)(4)(iv). This procedure applies to loans to the committee from the candidate's personal funds.

The Act and Commission regulations, however, specifically provide that when a candidate receives a loan for use in connection with her campaign, the candidate receives such a loan as an agent of her authorized committee or committees. 2 U.S.C. §432(e)(2); 11 CFR 101.2 and 102.7(d). Such loans are reportable by the committee and itemized as loans from the lender to the committee, rather than as loans from the candidate to the committee. 2 U.S.C. §434(b)(2)(H) and (3)(E); 11 CFR 104.3(a)(3)(vii) and 104.3(a)(4)(iv); see also 11 CFR 104.3(d). Furthermore, the repayment of such loans are reported and itemized as disbursements to the lender. 2 U.S.C. §434(b)(4)(E) and (5)(D); 11 CFR 104.3(b)(2)(iii) and 104.3(b)(4)(iii) and (iv).4/

The Act further provides that loans by lending institutions described in the Act made in accordance with applicable law and in the ordinary course of business do not constitute contributions to the candidate or her authorized committees. 2 U.S.C. §431(8)(B)(vii); 11 CFR 100.7(b)(11). Thus, any loans to a candidate as an agent of her authorized committees or to her authorized committees from persons or entities, other than those lending institutions described in the Act, come within the Act's definition of contribution. See 2 U.S.C. §431(8)(A)(i); 11 CFR 100.7(a)(1). As contributions, such loans become subject to the prohibitions and limitations of the Act. See 2 U.S.C. §§441a, 441b, 441c, 441e, and 441f; Advisory Opinions 1982-64 and 1978-40.

You are a candidate who will receive personal loans which you then plan to loan to your committee. The Act specifies that you will be treated as receiving or obtaining these loans as an agent of your committee. Therefore, these loans do not qualify

3/ Commission regulations also define "personal funds." See 11 CFR 110.10(b); Advisory Opinions 1982-64 and 1978-40.

4/ The Act and regulations also provide that debts and obligations owed to or by a political committee which remain outstanding shall be continuously reported until extinguished. See 2 U.S.C. §434(b)(8); 11 CFR 104.3(d) and 104.11. This reporting requirement attaches to both loans of a candidate's personal funds to her authorized committees and loans obtained by the candidate as an agent of her committees. This reporting requirement also continues into subsequent election cycles where the debt or obligation remains outstanding.

9704383508662

as your personal funds. Accordingly, your committee should report and itemize these loans as loans from the initial lender rather than as loans of your personal funds. See Advisory Opinions 1982-64 and 1978-40.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. 2 U.S.C. §437f.

Sincerely yours,

John Warren McGarry

John Warren McGarry
Chairman for the
Federal Election Commission

Enclosures (AOs 1984-60, 1982-64 and 1978-40)

C 0 0 0 0 0 0 0 0 7 6

Candidate's mom, wallet funding race

By CHRISTOPHER JUDD
The Express-Times

BETHLEHEM — Bob Kilbanks is dipping heavily into personal and family savings to keep his Republican congressional campaign alive until the primary election.

And, he said, he was able to lend his campaign more than $30,000, thanks to gifts from his mother.

The contributions Kilbanks made to himself raised eyebrows among those who support Ken

Please see KILBANKS /A-2

Continued from A-1

Smith, but it's unlikely Smith will file a formal complaint. Kilbanks reported income from his business through 1994 and 1995 of $38,000. He was able to lend his campaign $30,120 because of financial gifts from his mother, he said.

Individual contributors can give no more than $1,000 to a candidate, a limit reached by Kilbanks' mother, Jacqueline, last year. It is illegal for a contributor to give cash to a candidate as a personal "gift" above the limit for the sole purpose of the candidate turning around and giving the money to the campaign.

However, if it's a customary gift the candidate has received for several years prior to the campaign, it is allowed, said Federal Election Commission spokeswoman Kelly Huff.

"If his parents have been giving him thousands of dollars every few years, that is fine," said Huff.

Kilbanks has received such gifts for years and can prove it, said campaign manager Steve Finney. A Smith campaign spokesman said Smith would likely not file a complaint.

Kilbanks' finance report, filed with the FEC, says Kilbanks himself accounted for $40,120 of the $50,477 his campaign took in from January to April. About $10,000 came from other contributors.

The Easton Realtor had more success generating contributions in the last six months of 1995, when nearly $17,000 of the $24,000 he raised came from contributors other than himself. Kilbanks also kicked in $7,736 during that period.

Kilbanks, who also sought the 15th Congressional District seat in 1994, is second only to perceived front-runner Ken Smith in organizational support in a field of four GOP candidates. Kilbanks has the support of many Northampton County Republican Committee volunteers who are loyal to former committee Chairman Charlie Roberts, Kilbanks' campaign director.

Still, Smith, the mayor of Bethlehem, has outpaced Kilbanks' fund-raising efforts by a better than 2-1 margin. However, Kilbanks said Smith has gone after and received vast corporate donations, while he focused on grass-roots support. Kilbanks said he'll spend whatever is necessary to win.

"There is a message and concerns that people want to see addressed in Washington and any amount of financial sacrifice is worth it," he said.

Meanwhile, Kilbanks is using his remaining dollars to launch upcoming television and radio advertisements to boost his name recognition in the days leading up to the April 23 election.

"They're on deck," said Kilbanks.

9704385084

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 20, 1997

Jeffrey S. Smith, Esq.
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, PA 18045

RE: MUR 4353
Robert D. Kilbanks
Jacqueline Kilbanks

Dear Mr. Smith:

The transcripts of the depositions are now ready for Robert D. Kilbanks and Jacqueline Kilbanks to review and sign in the office of the court reporter. Your clients should contact the court reporter to arrange a time to read and sign the transcripts within thirty (30) days:

Slifer, Voice & Shade
1228 Walnut Street
Allentown, PA 18102

(610) 434-8588

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Thomas Andersen

Thomas Andersen
Attorney

Celebrating the Commission's 20th Anniversary
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

9704385086 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 22, 1997

Jeffrey S. Smith, Esq.
Jeffrey S. Smith & Associates
2704 William Penn Highway
Easton, PA 18045

RE: MUR 4353
Robert D. Kilbanks
Jacqueline Kilbanks

Dear Mr. Smith:

This is to confirm our telephone conversation of April 21, 1997, during which we discussed the need for additional information in the above-referenced matter. Once this information is in hand we are hopeful that we will be able to move on with the enforcement process in short order. Please provide answers to the following questions and produce the requested documents within fifteen (15) days of your receipt of this letter. The definitions included with the original discovery request are applicable to this request.

1. a. Produce a copy of the federal tax returns of Robert D. Kilbanks for tax year 1996.

   b. If not available, then state his gross income and adjusted gross income for tax year 1996 and the sources of that income, including real estate sales and rental income, and provide copies of all W-2s, 1099s, and all other earnings statements for tax year 1996.

2. a. Provide the date, amount, and a description of all payments and gifts from Jacqueline Kilbanks to Robert D. Kilbanks, from September 24, 1996 to the present.

   b. Produce copies, front and back if applicable, of all such payments.

   c. Identify and produce all documents that formed the basis for determining the timing and amounts of the payments and gifts from Jacqueline Kilbanks to Robert D. Kilbanks from September 24, 1996 to the present.

2704385086

3. a. Provide the date, amount, and a description of all payments and gifts from Jacqueline Kilbanks to Susan Kilbanks and Carol Kilbanks, from January 1, 1997 to the present.

b. Produce copies, front and back if applicable, of all such payments.

c. Identify and produce all documents that formed the basis for determining the timing and amounts of the payments and gifts from Jacqueline Kilbanks to Susan Kilbanks and Carol Kilbanks from January 1, 1997 to the present.

4. Produce a copy of the federal gift tax returns of Jacqueline Kilbanks for tax year 1996.

5. a. State whether Jacqueline Kilbanks signed the petition submitted by Robert D.Kilbanks to qualify for the 1994 Pennsylvania primary election for U.S. Congress.

b. If yes, state the date on which she signed the petition and provide a copy of the page of the petition on which her signature appears.

6. Documents provided by you indicate that Robert D. Kilbanks received from Jacqueline Kilbanks during 1993 and in 1994. Please explain what was done with these funds, including how they were spent. Provide documentation if available.

Thank you for your and your clients' cooperation. We look forward to resolving this matter in an expeditious manner.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Thomas J. Andersen

Thomas J. Andersen
Attorney

9704385086 7

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Jeffrey S. Smith & Associates

JUN 27 1 19 PM '97

2704 William Penn Highway
Easton, Pennsylvania 18045
(610) 258-7899

Mr. Tom Anderson
Federal Election Commission
909 E Street, NW
Washington, DC 20463

June 23, 1997

RE: MUR 4353
Robert D. Kilbanks

Dear Mr. Anderson:

Enclosed herein please find the additional information that you have requested. I apologize, once again, for any inconvenience the delay may have caused. I trust that you will find this response satisfactory.

Additionally, I would like to take this opportunity to address several concerns which have arisen over the course of this investigation, as well as, present, for a final time, our position in regards to the above referenced action.

First, as I now understand the process of your review and investigation, you have essentially advised that the F.E.C. has already predetermined that there is "reason to believe" that an F.E.C. violation has occurred. Therefore, the sole purpose of your investigation is to establish a case against Mr. Kilbanks. Mr. Kilbanks, in turn, has absolutely no opportunity to demonstrate how the initial, cursory (at best), evaluation is in error. In fact, the best Mr. Kilbanks (or any candidate involved in an investigation) can hope for is a slim opportunity to mitigate your recommendation. If my above understanding is correct, I am deeply troubled by the presumption of guilt under which your office operates. I would argue that the initial cursory review could possibly indicate that a violation has occurred while an open minded, unbiased, true investigation could (and would in this action) later reveal that the complaint does not warrant a "reason to believe" finding. I would further suggest that the unique facts of this particular case warrant a dismissal of the complaint. The current procedure, which does not truly allow a candidate to prove his/her innocence, is flawed and against the spirit, if not the letter, of the Constitution. Not only is the candidate presumed guilty, but he/she is not so much as provided with an opportunity to rebut that presumption.

Secondly, I am additionally troubled by the fact that your office, unilaterally, has the same opportunity of presenting this (and every) case to the Commission. Therefore, the Commission is provided with the facts as you allege they occurred, the law as you allege it stands, the violation(s) as you allege, and even the penalties as you suggest. Furthermore, in the event that the Commission is not convinced by your one-sided interpretation, you, and you alone, handle all questions which the Commission may have. In all of my years of practicing law, from small

9704385088

administrative hearings to full jury trials, I have never been involved in a situation where I was excluded from the final argument. Your knowledge, of course, of this case is limited to your review of documents and less than eight (8) hours of sworn testimony. I, on the other hand, was with Mr. Kilbanks before he announced his candidacy, I worked for his Committee before he decided to finance a portion of his campaign, I toiled for countless hours with Mr. Kilbanks, his campaign committee, the Code of Federal Regulations and Advisory Opinions long before he contributed to his campaign. I have also personally dealt with the press and the complainant, Mr. Brose, on these very issue. If anyone is qualified to present the facts and handle questions on this case... it is I. To deny Mr. Kilbanks this opportunity wreaks of a denial of his Due Process Rights.

In regards to your particular investigation; I strongly object to the direction which your investigation is focused. Under normal civil, quasi-criminal and criminal proceedings I am able to object to the relevance of a particular inquiry. Your focus upon Mrs. Kilbanks' gifting to her other children has absolutely no relevance upon the gifting to Mr. Kilbanks. The question in this investigation is Mrs. Kilbanks' customary gifting to Mr. Kilbanks. As such, any and all inquiries into her gifting to anyone other than Mr. Kilbanks is irrelevant and has absolutely no bearing upon the customary gifting from mother to son. Mrs. Kilbanks may have one hundred reasons for not gifting equally. In fact, several reasons have already been provided (i.e. his sisters are better off financially (Mrs. Kilbanks' deposition), Mr. Kilbanks' personal sacrifice when his father grew ill (production of documents), and Mr. Kilbanks' provisions (financial and otherwise) to his mother after the death of his father (production of documents)). Regardless, the only relevant gifting to be reviewed is the gifting from mother to son.

In closing, I would also like to add that, as a result of the divesting of her estate, Mrs. Kilbanks has been able to successfully reduce her annual premium

Therefore, the strategy of divesting, which was planned and followed, has been a tremendous success. These results, in and of themselves, demonstrate the true divesting intent behind the gifting. Accordingly, I now reiterate my argument that the actual facts which should have been revealed through an honest investigation, in regards to the above referenced complaint, warrant a 100% dismissal of this complaint.

If I may be of any further assistance please do not hesitate to call

Very truly yours,

/s/ Jeff Smith

Jeffrey S. Smith, Esq.

JSS/scf
cc: Robert D. Kilbanks
Enclosures

9704385086 9

COMMONWEALTH OF PENNSYLVANIA

Read Instructions on Back Page Carefully

ATTENTION!

A. Complete all Blank Spaces (1-7) Prior to Circulation

B. This Petition may be used to submit for Nomination the Name of One Candidate for One Office Only

NOMINATION PETITION FOR:

(1) YEAR OF PRIMARY: 1994

(2) THE OFFICE OF (Check ONE block only and insert district number)

- ☒ Representative in U.S. Congress of District Number 15.
- ☐ Senator in the General Assembly of District Number _____.
- ☐ Representative in the General Assembly of District Number _____.

(3) NAME: Robert D. Kilbanks (PRINT OR TYPE NAME OF CANDIDATE)

(4) OCCUPATION/PROFESSION: real estate

(5) RESIDENCE: R.D. #1 (STREET) Lower Mt. Bethel Twp. Easton, PA 18042 (CITY, BORO OR TWP.)

(6) COUNTY OF SIGNERS: Northampton

(7) PARTY OF SIGNERS: Republ

To the SECRETARY OF THE COMMONWEALTH:

We, the undersigned, all of whom severally declare that we are qualified electors of the County and of the politic[al district] forth above, that we are registered and enrolled members of the political party set forth above, and have signed [no paper] inconsistent herewith, do hereby petition the Secretary of the Commonwealth to have the candidate whose Name, [Residence] or Occupation and Residence are set forth above, certified to the County Board of Elections of said County or Counties in said District, to be printed on the Primary Ballot of said Party, for the Year and Office set forth above.

SIGNATURE OF ELECTOR	PLACE OF RESIDENCE			OCCUPATION Profession or Business	DATE OF SIGNING
	House No.	Street or Road	City, Borough or Twp.		
Robert J. Hutchason	410	N. Pine Top Cir	Bethlehem PA	Financial Planner	2/28/94
Craig Gooding	1628	Saucon Valley Dr.	Bethlehem	Salesman	2/28/94
[illegible]	120	Colby Hill Rd.	Easton Pa	Financial Plan	2/28/94
Kathleen Soderick	320	Black River	Rd. Bethlehem Pa	Financial Plan	2-28-94
[illegible]	442	School Rd	BATH	Postmaster	2/28/94
Jacqueline M. Kilbanks	47	N. 10th St.	Easton, PA.	Homemaker	3/1/94
[illegible]	603	S. 21st St.	EASTON PA.	Bus. Sales	3/1/94

June 6, 1997

Federal Election Commission
Washington D.C. 20463
ATTN: Tom Anderson, Esq.
Lisa Klein, Esq.

We, Carol Ann Kilbanks and Susan Kay Kilbanks have read the letter dated June 5, 1997 from our brother, Robert Kilbanks, to the Federal Election Commission and we concur with its statements about the financial relationship between our mother, Jacqueline Kilbanks, and our brother over the past 15 years.

We realize that our mother has been primarily gifting to our brother as we have maintained incomes sufficient to our needs over those same 15 years.

We trust that the Federal Election Commission will take all of these documents under strong consideration and dismiss this complaint.

Sincerely,

Carol Ann Kilbanks

Susan Kay Kilbanks

June 6, 1997

We have read my brother, Robert Kilbanks letter dated May 1997 to the FEC, pertaining to the fiduciary relationship between my brother, Jacqueline and brother over the past 15 years.

What you must understand is that overnight, daily life changed in the Kilbanks household in 1982. My father awoke to no longer speak, move or walk debilitated by a stroke combined w/ cancer, chemotherapy, dialysis and rehabilitation. My brother gave up his life, work, friends to move 2,500 miles across the country to take care of his dying father. My mother was overwhelmed and I'm so thankful for his emotional and physical support. He managed my father's business to assume rapidly increasing medical bills and to provide for the family. He "gifted" my mother as she could bake ends meet.

As time went on, my father passed away and that same year, also my mother's parents - who she had been taking care of all along. Her parents left her an inheritance with which she chose to "gift"

97048508702

(compensate) my brother for all his wonderful support all these years. My sister and I were involved with their ascending careers and my brother came to the rescue. He was a hero.

So this is the basis of their financial relationship. It goes back a while ... We hope you can understand the emotional side of our explanation. We hope you will review this case and dismiss it. Bob did an incredible job and we will always be grateful!

Thank-You

Sincerely

Jane F. Kilbanks

Carol F. Kilbanks

970438507

JACQUELINE M. KILBANKS
47 N. 10TH ST.
EASTON, PA 18042

1182

Jan. 2 19 97

PAY TO THE ORDER OF Robert Kilbanks $ 13,000.00

Thirteen Thousand and 00/100 DOLLARS

FIRST UNION First Union National Bank Easton, PA

CODE

FOR

Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 N. 10TH ST.
EASTON, PA 18042

1183

Jan. 17 19 97

PAY TO THE ORDER OF Robert Kilbanks $ 2000.00

Two Thousand and 00/100 DOLLARS

FIRST UNION First Union National Bank Easton, PA

CODE

FOR

Jacqueline M. Kilbanks

9700438508 74

JACQUELINE M. KILBANKS
47 N. 10TH ST.
EASTON, PA 18042

1184

1/22

Jan. 21 19 97

PAY TO THE ORDER OF Robert Kilbanks $ 1500.00

One Thousand Five Hundred 7/8 DOLLARS

FIRST UNION First Union National Bank Easton, PA

CODE

FOR

Jacqueline M. Kilbanks

SIGNED and

9704385087 5

Robert Kelly

83666422

Robert Kelly

96901668

Robert Kelly

405

01055531

JACQUELINE M. KILBANKS
47 N. 10TH ST.
EASTON, PA 18042

1/30 1190

Jan. 30, 1997

PAY TO THE ORDER OF Robert Kilbanks / $3000.00

Three thousand and 00/100 — DOLLARS

FIRST UNION First Union National Bank Easton, PA

CODE

FOR

Jacqueline M. Kilbanks

9704385087 6

JACQUELINE M. KILBANKS
47 N. 10TH ST.
EASTON, PA 18042

2/19 1197

Feb. 18, 1997

PAY TO THE ORDER OF Robert Kilbanks / $1000.00

one thousand and 00/100 — DOLLARS

FIRST UNION First Union National Bank Easton, PA

CODE

FOR

Jacqueline M. Kilbanks

JACQUELINE M. KILBANKS
47 N. 10TH ST
EASTON, PA 18042

2/25 1204

Feb. 25, 1997

PAY TO THE ORDER OF Robert Kilbanks / $3000.00

Three thousand and 00/100 — DOLLARS

FIRST UNION First Union National Bank Easton, PA

CODE

FOR

Jacqueline M. Kilbanks

9704385087 7

Peter Kelly

0332 40387

FEB 19 97

▶0312014674
FUNB-NA 02/19/97
CHESTER PA
79722964

Peter Kelly

0441 86078

FEB 25 97

▶0312014674
FUNB-NA 02/25/97
CHESTER PA
82205435

Peter Kelly

JAN 13 97

▶0312-01464
FUNB-NA 01/30/97
CHESTER PA
01354169

JACQUELINE M. KILBANKS
47 N. 10TH ST.
EASTON, PA 18042

1214

March 21, 97

PAY TO THE ORDER OF Robert Kilbanks $3000.00

three Thousand and 00/100 DOLLARS

FIRST UNION First Union National Bank Easton, PA

CODE

FOR

Jacqueline M. Kilbanks

9704385087 8

Helen Keller

0435 26603

▶0312014674 03/21/91
FUND-MA
CHESTER PA
79223101

M12 19

9704385087 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4353
Robert D. Kilbanks	)	
Jacqueline Kilbanks	)	
Friends of Bob Kilbanks Committee	)	
and David Price, as treasurer[1]	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was generated by a complaint alleging that Robert D. Kilbanks, a candidate in Pennsylvania's 15th Congressional District during the 1996 election, accepted excessive contributions in the form of monetary gifts from Jacqueline Kilbanks, his mother, in violation of the Federal Election Campaign Act of 1971, as amended ("the Act").[2] On October 18, 1996, the Commission found reason to believe that Mr. Kilbanks and the Friends of Bob Kilbanks Committee and Chris M. Miller, as treasurer ("the Committee"), each violated 2 U.S.C. § 441a(f). The Commission also found reason to believe that Jacqueline Kilbanks violated 2 U.S.C. § 441a(a)(1)(A). On the same date, the Commission authorized subpoenas for depositions in order to flesh out the excessive contribution allegations. The investigation is now complete and this Office recommends that the Commission take no further action against Robert Kilbanks.

9704338508830

---

[1] Mr. Price replaced Jeffrey S. Smith as treasurer on October 17, 1996. Mr. Smith replaced Chris M. Miller as treasurer on September 30, 1996. Amended statements of organization reflecting these changes have been received.

[2] As stated in the First General Counsel's Report, Mr. Kilbanks won the Republican Primary Election held April 23, 1996 with 38% of the vote. He lost the General Election in November with 41% of the vote.

Jacqueline Kilbanks, the Committee and its treasurer (collectively, "Respondents"), admonish them and close the file in this matter.

II. DISCUSSION

The Commission's reason to believe findings were based largely on the dramatic increase in parental gifts in the years leading up to Robert Kilbanks' congressional candidacies in 1994 and 1996.[3] Jacqueline Kilbanks wrote a total of ninety-three (93) checks to her son over a period of approximately seven years as follows:

YEAR	AMOUNT PER YEAR
1990	
1991	
1992	
1993	
1994	
1995	$55,396
1996	$62,100
1997	$26,500 (through March)

These gifts were dispensed by means of periodic checks from Ms. Kilbanks to her son

Attachment 1 shows the exact date and amount of each check and other pertinent information.

Gifts to a candidate may constitute contributions subject to the Act's limitations. 2 U.S.C. § 431(8)(A)(i). However, candidates may make unlimited expenditures of personal funds, which include "gifts of a personal nature which had been customarily received prior to candidacy." 11 C.F.R. § 110.10(b)(2). Accordingly, the central issue in this matter is whether the parental gifts received by Robert Kilbanks during his

---

[3] The information for 1996 and 1997 was not available when the Commission made its reason to believe findings.

9704385088 1

candidacies were personal in nature and consistent with his mother's pattern of giving in past years.

In their responses to the Commission's reason to believe findings, Attachment 2, Respondents argue that the facts in this matter "parallel those contained in [Advisory Opinion 1988-7]," where the requestor had received a $20,000 cash gift from his parents in each of the three years prior to his candidacy. *Id.* at 1.[4] The Commission determined that these gifts appeared to be of a personal nature "rather than made in anticipation of or related to any campaign for Federal office." Because the receipt of these gifts indicated a "repetitious custom of monetary gifts," the Commission concluded that "another $20,000 cash gift under similar circumstances from [the requestor's] parents" in the same year he declared his candidacy would be considered personal funds. Mr. Kilbanks was a candidate in the 15th District in both 1994 and 1996 and, in contrast to the level of gifts in AO 1988-7, the total gift amounts he received from his mother were not constant from year to year.

A. **Gifts Preceding the 1994 Primary Election**

In her deposition, Ms. Kilbanks testified that she gave gifts to her children "to divest my estate and avoid inheritance taxes. . . . I want my children to . . . have it while I'm still living." Deposition transcript of Jacqueline Kilbanks ("J. K. depo") at 69.[5]

---

[4] Attachment 2 is a compilation of responses and written statements received by this Office after the Commission made its reason to believe findings. Supporting documents submitted by Respondents, including income tax returns, gift tax returns, final estate account, bank statements and copies of negotiated checks, are available for the Commission's review in the Office of the General Counsel.

[5] The complete deposition transcripts of Jacqueline Kilbanks and Robert Kilbanks are available for review in the Office of the General Counsel.

9704385088 2

9 7 0 4 3 8 5 0 8 8 3

9 7 0 4 3 8 5 0 8 8 4

In any event, both Jacqueline and Robert Kilbanks testified in essence that there was no connection between her gifting and Mr. Kilbanks' 1994 candidacy, either by directly financing his campaign or by covering his living expenses during the campaign.[9] J.K. depo at 28-29, 90-91, 95; R.K. depo at 51-52, 58.

Mr. Kilbanks lost the May 1994 primary election with 32% of the vote, compared to the winner's 68%. During his deposition he testified that his 1994 campaign "spent less than $2.000" and that "he wasn't even a candidate in the eyes of the . . . Commission."[10] R.K. depo at 54, 56. He claimed that he did not contemplate running for Congress until January 1994, so his mother would not have known of his plans until after that time. *Id.* at 39, 42, 52-53. Ms. Kilbanks testified in her deposition that she first

---

[9] Funds designated for living expenses are best viewed as contributions based on three factors: receipt frees up other funds of the candidate for campaign purposes; candidate would have more time to spend on campaign instead of pursuing his or her usual employment; the funds would not have been donated but for the candidacy. *See* AOs 1982-64, 1978-40, and 1976-70.

[10] No Statement of Candidacy or disclosure reports were filed with the Commission in relation to Mr. Kilbanks' 1994 campaign.

9704385085

became aware of her son's political aspirations when he told her that he was going to run in the 1994 primary, but she could not recall any such discussion taking place prior to April 1994. J.K. depo at 21-22. However, a copy of Robert Kilbanks' nomination petition was later provided to this Office, which included the signature of Jacqueline Kilbanks, dated March 1, 1994. Accordingly, it appears that Ms. Kilbanks would have learned of her son's candidacy some time prior to that date.

As shown in Attachment 1, the amounts and dates of the checks were somewhat consistent during the year before and after the primary election, with no clear nexus to the campaign or to Ms. Kilbanks' awareness of her son's plans to run for Congress.

9704385088 6

Based on Respondents' testimony and supporting documents, and in particular the low level of resources devoted to the 1994 campaign effort, it appears that the gifts given by Jacqueline Kilbanks to Robert Kilbanks from 1990 through 1994 were personal in nature and not made in anticipation of or related to his 1994 congressional campaign.

B. **Gifts Preceding the 1996 Primary Election**

The checks provided by Ms. Kilbanks to her son in 1995 amounted to $55,396, an increase of approximately $21,000 over the amounts given in each of the two preceding

years. She increased the amount again in 1996, giving approximately $62,100.[11] Ms. Kilbanks could not identify any reasons for giving these amounts other than the general divestment of her estate. J.K. depo at 100, 102-03. Mr. Kilbanks stated that he had expected to receive "[a]nywhere from $34,000 to $50,000" from his mother in 1995, R.K. depo at 65, based on the amounts he had received in previous years and on the increasing size of his mother's estate.[12]

When questioned why she generally gave lesser gift amounts to her two daughters than to her son, Ms. Kilbanks testified that her son was "[n]ot doing as well financially" as her daughters, due to the "ups and downs" of his real estate business. J.K. depo at 107. Mr. Kilbanks' real estate sales and profits, as well as his adjusted gross income, fluctuated considerably from 1990 to the present; however, there exists no discernible connection between these amounts and the annual gift amounts

---

[11] Ms. Kilbanks' gift tax returns indicate

[12]
Q What was the basis for that expectation?
A Because in 1994 the gift amount, I believe, was And many gifts were received prior to that in lesser amounts but the estate was growing too, bank stocks and others that were increasing
Q Did you ever discuss that expectation with her?
A I was . . . aware of some of the factors in her estate and the size of her estate. I had managed my father's estate. She's a widow. I'm her son. It's family, you know. We're close that way
Q What did you discuss . . . as to expectations of amounts you might receive in 1995?
A Nothing was really discussed other than we knew -- we had a large estate, that it had to be divested and . . . she knew what that entailed

R.K. depo at 65-66

0 0 4 3 8 5 0 8 8 7

received from his mother.[13] In his written submission sent following the depositions, Mr. Kilbanks responded that "[m]ost of the gifting has gone to me as my sisters are better off financially and because of the extremely strong mother/son relationship arising from the period of my father's illness in the 1980's." See Attachment 2 at 7. Mr. Kilbanks' two sisters have submitted a signed letter stating they "realize that our mother has been primarily gifting to our brother as we have maintained incomes sufficient to our needs . . . ." Attachment 2 at 9.

Robert Kilbanks testified that he first contemplated running in the 1996 congressional race in January of 1995, after learning that his party's 1994 nominee had decided not to run again. R.K. depo at 59-60. He believed that he had discussed his candidacy with his mother at this time, see *id.* at 61-62, although Ms. Kilbanks placed the time that she first became aware of his 1996 campaign at April 1995. J.K. depo at 38. Commission records indicate that Ms. Kilbanks contributed $70 to the Committee on June 21, 1995, and $930 on September 5, 1995, reaching her $1,000 individual campaign limit for the primary election. The largest gifts by Ms. Kilbanks to her son in 1995 included a check for $10,000, dated June 28, and a check for $5,396, dated July 19. See Attachment 1 at 2. She could not recall any particular reason why she wrote the check for

---

[13] Mr. Kilbanks described his current occupation as "realtor." R.K. depo at 19-20. The following chart shows his real estate sales and adjusted gross income for tax years 1990-96

9704385088

$10,000, but she guessed that the check for $5,396 might have been for a bill. J.K. depo at 113-16. Mr. Kilbanks testified that the checks may have been for him to pay an "insurance premium" or "some taxes." R.K. depo at 127-28. Respondents later provided a copy of a bill for a life insurance premium (the same insurance policy referred to at p. 7) in the amount of $5,396, with a due date of July 30, 1995.

Mr. Kilbanks testified that he formally announced his candidacy in November of 1995. R.K. depo at 68. He stated that prior to that time, he devoted "approximately two hours per day" to his campaign. *Id.* at 67. Committee reports indicate that Mr. Kilbanks made $7,737 worth of contributions to his own campaign in 1995, including a $6,000 contribution on September 11.[14] As shown in Attachment 1, the amounts and dates of parental gifts in 1995 do not reveal any clear nexus to Mr. Kilbanks' primary campaign, either in connection with his own personal contributions or to Ms. Kilbanks' knowledge of his candidacy. However, certain gifts made in the early months of 1996 leading up to the April primary are more suspect.

Between January 1 and April 23, 1996, when the primary election took place, Jacqueline Kilbanks gave a total of $58,100 in checks as gifts to her son, more than in all of 1995 or any other year. Although most of the checks were written in amounts and intervals that generally accord with her past practice, three checks stand out. First, on February 26, 1996, Ms. Kilbanks wrote a check to her son in the amount of $20,000, which was twice as large as any other gift she had given up to that time. The same day,

[14] $737 of this amount was in the form of in-kind contributions, while the remaining $7,000 was cash. The Committee received a total of $24,636 in contributions for 1995 and made $17,178 in disbursements.

9704385088 9

Robert Kilbanks made a $17,000 personal contribution to his campaign. Then, on March 19, 1996, Ms. Kilbanks wrote a check to him in the amount of $10,000, and two days later Mr. Kilbanks contributed $9,000 to his campaign. Finally, on April 3, 1996, Ms. Kilbanks wrote her son a check for $11,000; Committee reports show that he contributed $1,000 and loaned another $10,000 of his own funds to his campaign on the same day. Mr. Kilbanks testified that, although his "days were still open for real estate" during this period, he was not able to devote as much time to his business due to the increasing demands of the campaign. R.K. depo at 69-72.

In her deposition, Ms. Kilbanks did not offer any specific reasons why she wrote these checks, other than the general divestment of her estate.[15] However,

---

[15]
Q: Why did you write that check [for $20,000, dated February 26, 1996]?
A: Just gave him that amount. I could have had a windfall maybe. I can't remember that far back.
Q: You could have had a windfall?
A: Yeah, I could have had a windfall.
Q: What windfall?
A: I could have won like a lottery or something.
Q: Was that [check amount] based on anything that was happening in his life?
A: No.

. . . .

Q: [W]as he involved in the campaign? Again, we're talking February 26 [1996].
A: Yeah, that's campaign time.
Q: Did . . . that fact influence your writing of the check?
A: No.

. . . .

Q: Why did you write that check [for $10,000, dated March 19, 1996]?
A: Just wrote it.
Q: No reason?
A: No, no reason behind anything, just gave it to him.
Q: Did you . . . write it based on his needs or anything that was happening in his life?
A: No.
Q: Was it purely to divest your estate?
A: Sure. Sure. That's all part of it, absolutely.
Q: . . . I see checks before that are for $2,000 and then $10,000 and $2,000 all in the same month. Any particular --
A: That's just the way I do it.
Q: Why spread them out over the month like that?
A: No specific reason.

9704385089O

Robert Kilbanks testified that his mother knew he was heavily involved in his campaign at the time and that she was aware of his financial needs:

> Q: So $17,000 out of the $20,000 [check dated February 26, 1996] you received from your mother was transferred to your campaign committee?
> A: Yes.
> . . . .
> Q: Was your mother aware that you did this?
> A: I don't know for sure. It was a gift.
> Q: Was she aware that you were heavily involved in your campaign at this time?
> A: Yes.
> Q: What discussions took place when she wrote the check or when she was planning to write the check?
> A: I think I recall, you know, discussing one of those unique situations where money was needed.
> Q: What situation, what discussion?
> A: I don't know. It was a campaign, and it's a very intense time. And I needed money.

R.K. depo at 131-32. Mr. Kilbanks also admitted that he transferred funds to his campaign from the $10,000 check dated March 19, 1996, and from the $11,000 check dated April 3, 1996. R.K. depo at 132-34.

The Committee's 1996 12 Day Pre-Primary Report, covering the period from January 1 through April 3, 1996, shows that out of a total of $50,477 in receipts, $40,120 of this amount, or approximately 80%, was in the form of contributions or loans from the candidate. The Committee's expenditures totaled $47,325, with $10,610 cash on hand

---

(fn. 15 cont.)

> Q What was that check for [dated April 3, 1996, for $11,000]?
> A Just another gift
> Q Were you aware of anything going on in his life at the time?
> A No
> Q Did he tell you anything about needing money?
> A No

J.K. depo at 117-121.

9704385089 1

remaining at the end of this period. Clearly, candidate contributions and loans played a significant role in Mr. Kilbanks' campaign effort during the primary, and these receipts were closely related to the gift giving of Ms. Kilbanks. Based on Robert Kilbanks' testimony and the unusually large checks clustered within the two month period directly preceding the April primary election, it appears that the giving of these checks may have been influenced, at least in part, by Ms. Kilbanks' awareness of her son's campaign needs and were not "gifts of a personal nature."[16] *See* 11 C.F.R. § 110.10(b)(2).

C. **Gifts Preceding the 1996 General Election**

After winning the April primary, Robert Kilbanks received a total of $4,000 by means of four checks from his mother prior to the general election on November 5, 1996. See Attachment 1 at 3. Jacqueline Kilbanks could not provide any explanation why she wrote so few checks during this time. J.K. depo at 121-23. Robert Kilbanks, however, testified that the reason for this was mainly a result of the complaint (which was filed on May 2, 1996) and his concerns about complying with the Act. R.K. depo at 136. He contributed only $2,500 to his campaign during this period. After Mr. Kilbanks lost the November general election, no parental gifting or candidate contributions occurred during the remainder of the year. The Committee's 1996 Year End Report shows $66 cash on hand and no debts. Because nothing unusual occurred with respect to Ms. Kilbanks' gifting in the period surrounding the general election, the checks she

[16] Although the gift checks may also be considered contributions to the extent that such funds enabled Mr. Kilbanks to devote less attention to his work and more to his campaign (*See, e.g.*, AO 1978-40), this does not appear to be a significant issue in light of his modest earnings, which averaged $1,825 year during the five year period prior to January 1996. See fn. 13. Mr. Kilbanks appears to have minimized his basic living expenses over the past several years by living free of charge in a house owned by his mother. R.K. depo at 7-9.

9704385089 2

wrote to her son following the April primary do not appear to be improper contributions.

D. Recommended Disposition

While Respondents have consistently argued that the gifts given by mother to son exhibit a pattern of gifting that began long before Mr. Kilbanks decided to run for Congress, and while it is possible that a "custom" of gifting may be established by a pattern of regularly-given gifts of similar value or even gifts of gradually increasing value, in the matter at hand there are certain individual gifts that do not closely fit within any recognizable pattern. Ms. Kilbanks provided these questionable gifts to her son during the heat of the 1996 primary race, when she likely would have been influenced by his campaign needs into giving sooner and in larger amounts than she would have if he had not been a candidate. Accordingly, the three checks totaling $41,000 that Ms. Kilbanks wrote to her son in the two month period before the 1996 primary election do not appear to constitute "gifts of a personal nature which had been customarily received prior to candidacy." *See* 11 C.F.R. § 110.10(b)(2).

However, in light of Respondents' apparent confusion as to how the divestiture of Ms. Kilbanks estate may be affected by the Act and its regulations, the small number of questionable checks in proportion to the total amount written since 1990, and the curtailment of large and frequent gifting during the general election, this Office recommends that the Commission exercise its prosecutorial discretion by

9704385089 3

taking no further action against all Respondents, and close the file in this matter.[17] *See* *Heckler v. Chaney*, 470 U.S. 821 (1985). If the Commission approves these recommendations, this Office will send an admonishment letter to Respondents.[18]

III. RECOMMENDATIONS

1. Take no further action against Robert D. Kilbanks, Jacqueline Kilbanks, and the Friends of Bob Kilbanks Committee and David Price, as treasurer.

2. Approve the appropriate letter.

3. Close the file.

Lawrence M. Noble
General Counsel

9/23/97
Date

BY: _____
Lois G. Lerner
Associate General Counsel

Attachments:
1. Chart showing dates and amounts of gifts and contributions
2. Responses to reason to believe findings

Staff Assigned: Thomas J. Andersen

2704385089 4

---

[17] Mr. Kilbanks testified that, in early 1996, he believed his mother's gifting was in compliance with the Act because he "had reviewed the FEC code and the portion of it that allows gifts to be used" and also checked with counsel on the matter. R.K. depo at 151-53.

[18] This Office notes that a news article dated April 4, 1997 indicates that Robert Kilbanks plans to "launch a third campaign" for the 15th district seat. Allentown Morning Call. During a phone conversation with staff from this Office on August 29, 1997, counsel for Respondents confirmed Mr. Kilbanks' plans, but stated that his client does not intend to accept parental gifts during his next candidacy "if it is still an issue."

FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA DAVIS
COMMISSION SECRETARY

DATE: SEPTEMBER 29, 1997

SUBJECT: MUR 4353 - General Counsel's Report

The above-captioned document was circulated to the Commission on **Wednesday, September 24, 1997**.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	_
Commissioner Elliott	_
Commissioner McDonald	XXX
Commissioner McGarry	_
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for **Tuesday, October 21, 1997**.

Please notify us who will represent your Division before the Commission on this matter.

9704385089 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4353
Robert D. Kilbanks;	)	
Jacqueline Kilbanks;	)	
Friends of Bob Kilbanks Committee and David Price, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 21, 1997, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions in MUR 4353:

1. Take no further action against Robert D. Kilbanks, Jacqueline Kilbanks, and the Friends of Bob Kilbanks Committee and David Price, as treasurer.

2. Approve the appropriate letter as recommended in the General Counsel's September 23, 1997 report.

3. Close the file.

Commissioners Aikens, Elliott, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald dissented.

Attest:

10-22-97
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

9704385089 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 14, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Frederick Brose
17 Boileau Avenue
Easton, PA 18042

RE: MUR 4353
Robert D. Kilbanks, *et al.*

Dear Mr. Brose:

This is in reference to the complaint you filed with the Federal Election Commission on May 2, 1996, alleging excessive contributions in the form of gifts received by Robert D. Kilbanks from his mother during the congressional race in Pennsylvania's Fifteenth District in 1996.

Based on that complaint, on October 18, 1996, the Commission found that there was reason to believe Robert D. Kilbanks and the Friends of Bob Kilbanks and its treasurer, each violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Commission also found reason to believe that Jacqueline Kilbanks violated 2 U.S.C. § 441a(a)(1)(A), and conducted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against these respondents, and closed the file in this matter on October 21, 1997. At the same time, the Commission admonished these respondents that the making and accepting of excessive contributions are violations of the Act. Enclosed is a copy of the final General Counsel's Report, which has been redacted based on personal privacy concerns.

This matter will become part of the public record within 30 days. The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 2 U.S.C. § 437g(a)(8).

9704385089 7

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Thomas J. Andersen

Thomas J. Andersen
Attorney

Enclosure
General Counsel's Report

9704385089 98

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 14, 1997

Jeffrey S. Smith, Esq.
2704 William Penn Highway
Easton, PA 18045

RE: MUR 4353
Robert D. Kilbanks
Jacqueline Kilbanks
Friends of Bob Kilbanks Committee
and David Price, as treasurer

Dear Mr. Smith:

On October 30, 1996, you were notified that the Federal Election Commission ("Commission") found reason to believe that your clients, Robert D. Kilbanks, and the Friends of Bob Kilbanks Committee and its treasurer, each violated 2 U.S.C. § 441a(f), and that Jacqueline Kilbanks violated 2 U.S.C. § 441a(a)(1)(A). On November 19, 1996, and June 27, 1997, you submitted responses to the Commission's reason to believe findings. After considering the circumstances of this matter, the Commission determined on October 21, 1997, to take no further action against your clients and closed the file in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

The Commission reminds you that the making and accepting of excessive contributions are violations of 2 U.S.C. § 441a. Specifically, the circumstances surrounding three gift checks totaling $41,000 given by Jacqueline Kilbanks to her son, Robert Kilbanks, during the two months prior to the 1996 primary election raise significant questions as to whether the checks constituted personal funds and, therefore, appear to be excessive contributions. *See* 11 C.F.R. § 110.10(b)(2). In light of Mr. Kilbanks' plans to run again in the 1998 election, your clients should take steps to

9704385089 9

ensure that similar activity does not occur during the 1998 election cycle or at any other time in the future.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Thomas J. Andersen

Thomas J. Andersen
Attorney

9704385090 0

97043850901

BEFORE THE FEDERAL ELECTION COMMISSION

Matter Under Review
No. 4353

ORIGINAL

DEPOSITION OF ROBERT D. KILBANKS

Taken in the offices of Slifer, Voice & Shade, 1228 Walnut Street, Allentown, Pennsylvania, on Thursday, January 16, 1997, commencing at 1:40 p.m., before Melissa L. Oswald, Registered Professional Reporter.

APPEARANCES:

LAW OFFICES OF
JEFFREY S. SMITH & ASSOCIATES
By: JEFFREY S. SMITH, ESQ.
2704 William Penn Highway
Easton, PA 18042
-- For The Kilbanks'

FEDERAL ELECTION COMMISSION
By: THOMAS J. ANDERSEN, ESQ.
-and-
LISA E. KLEIN, ESQ.
999 East N.W.
Washington, DC 20463
-- For The Federal Election Commission

* * *

SLIFER, VOICE & SHADE
1228 Walnut Street
Allentown, PA 18102
(610) 434-8588

724 Lehigh Street
Easton, PA 18042
(610) 250-0383

9704385090 2

INDEX TO WITNESSES

Witness	Page
ROBERT D. KILBANKS	
By Mr. Andersen	3, 152
By Ms. Klein	145, 152
By Mr. Smith	149

INDEX TO EXHIBITS

Exhibit	Description	Page
1	Tax returns	32
2	Gifted checks	97
3	Merrill Lynch statements	97
4	Recepits and disbursements	129

9704385090 3

* * *

ROBERT D. KILBANKS, having been duly sworn, was examined and testified as follows:

* * *

EXAMINATION

BY MR. ANDERSEN:

Q. Good afternoon. My name is Thomas J. Andersen. I'm an attorney with the office of general counsel of the Federal Election Commission.

With me is Lisa E. Klein, an assistant general counsel of the office of general counsel of the commission.

This an investigative deposition being taken pursuant to a Federal Election Commission subpoena under 2 U.S.C. 437 G. And not under the federal rules of evidence.

This investigation has been denoted matter under review 4353 pursuant to 2 U.S.C. 437 G.

All commission investigations are confidential, so no third

parties should be informed of what transpires today.

Can you please state and spell your name for the record?

A. My name is Robert D. Kilbanks, K-I-L-B-A-N-K-S.

Q. Mr. Kilbanks, are you represented by counsel today?

A. Yes, I am.

Q. Can you please identify him?

A. My counsel is Jeffrey Smith.

Q. Have you ever had your deposition taken before?

A. No, I have not.

Q. Mr. Kilbanks, this is an investigative and administrative deposition as opposed to a deposition being taken for ongoing litigation.

The commission has made no final determinations about anything. There is no litigation underway and none has been contemplated.

At this stage we're just here to find out the facts. And generally these types of depositions are informal. So

9704385090 4

any help you can give us in understanding the facts in this matter will be greatly appreciated.

But although they are informal, there are procedures and rules, and I will explain them.

The court reporter will be recording what we say here today. So please respond verbally rather than with nods or other non-verbal gestures. For the sake of the record, please wait until I finish my question and answer.

If you don't hear or understand a question, let me know, and I'll try to repeat it or rephrase it for you.

If during the course of the deposition you want to modify, change one of your answers, I'll give you the opportunity to do so. Just let me know.

If you need to take a break or confer with counsel, let mow know and I'll instruct the court reporter to take a break. All I ask is that you finish answering the pending question.

Finally, please remember

9704385090 5

that you are under oath and treat your testimony here today as if you were in a court of law.

Do you have any questions about these procedures?

A. No, I don't.

Q. Do you understand them?

A. Yes.

Q. When did you first learn that we were going to take your deposition?

A. I learned from my counsel in December through a letter, I believe, he received from the Federal Election Commission.

Q. Other than counsel, had you discussed today's deposition with anyone?

A. No, I haven't.

Q. Did you meet with your counsel in preparation for this deposition?

A. Yes.

Q. When?

A. Yesterday in his offices.

Q. For how long?

A. About three hours.

Q. Did you review documents with him?

9704385009006

A. Yes.
Q. Which ones?
A. Letters that he had written to the Federal Election Commission stating the points of the case.
Q. Was anyone else present?
A. Yesterday, yes.
Q. Who?
A. Jacqueline Kilbanks, my mother.
Q. Did you do anything else to prepare for this deposition?
A. No.
Q. Did you bring any documents with you today?
A. No.
Q. You have not reviewed any other documents in preparation for the deposition except for what you just discussed with counsel?
A. Correct.
Q. I'm going to begin by asking some background questions. What is your home address?
A. I reside at RD 1, Easton, Pennsylvania, 18042, mailing address 911

2704385509907

Northampton Street, Easton PA, 18042.
Q. Is it a house?
A. Yes.
Q. Who owns it?
A. It's in the name of my mother, Jacqueline Kilbanks.
Q. She is the owner of record?
A. Yes.
Q. Does anyone else live there?
A. No.
Q. Is there a mortgage on it?
A. No.
Q. It is paid free and clear?
A. Yes. It's been in the family for 70 years or so.
Q. Do you pay any rent on it?
A. No, I do not.
Q. Do you pay for the utilities?
A. Yes, I have been.
Q. Is that something your mother sometimes pays too?
A. At times she's helped out, but it's a 50/50 deal you might say.
Q. What about other house related expenditures; property taxes, house insurance?

9704385090908

A. She takes care of those for the most part.

Q. So can you give an estimate of what your expenses would be in terms of paying for the utilities or anything else that you've talked about?

A. I'd say maybe $1,000 a year or so.

Q. Do you perform any services in lieu of rent

A. Yes, I'm a caretaker for the property and have been involved over the course of maybe 15 years in remodeling the property also.

Q. And how long have you lived there?

A. Since about 1984, 12 years.

Q. Have you lived there continuously since that time?

A. Yes.

Q. Have you ever lived with your mother as an adult?

A. Yes. For a period from 1980 to 1984, my father was in a stroke condition and we took care of him at home.

9704385909

Q. Did you pay any rent to her at that time or to him?
A. No, I didn't.
Q. Did you live with your mother at all last year?
A. No, I did not.
Q. Have you ever moved from your house for any reason -- the house that you live in now for any reason, natural disaster, flood, that sort of thing?
A. Oh, I'm thinking for a short time there was a flood in the area for four or five months.
Q. From when to when?
A. Yes, right. I was thinking of over the course -- actual residency. For a short period of time I was staying at the 47 North Tenth Street house because of the natural disaster affecting the RD 1 property.
Q. What was that? I'm not quite clear on that.
A. The Delaware River flooded and residents were required to evacuate and the dwelling was threatened. And so all the furniture had to be moved out.

2704385091-0

Q. When did that take place?
A. That was -- I believe that was January -- late January 1009.
Q. Did you move directly to your mother's?
A. Yes.
Q. And when did you move back to your property?
A. It was about -- I'd say July or August 1996.
Q. When you were living with your mother, did you pay any rent to her?
A. No, I did not.
Q. Did you still -- was she still paying the mortgage on the house that you were living at?
A. As I mentioned there --
Q. I'm sorry, I'm getting the properties confused. I'm thinking about her place. What kind of damage to the property was there?
A. Damage in the cellar area and to the exterior porch, decking and water -- the water rose so high it threatened the whole property. So every piece of personal property

2704385091-1

had to be moved out of the house.
Q. How much time to repair it?
A. Well, remodeling took place during that period.
Q. And you moved right back in?
A. Yes.
Q. Who paid for the repairs?
A. In that period of time, it was my mother paying for the repairs. Previously, I had paid in the 1980s.
Q. Did she pay direct or did she have flood insurance?
A. Combination of flood insurance and her own monies.
Q. The part that the flood insurance didn't cover, she paid for?
A. Correct.
Q. How often do you talk to your mother?
A. I would say every other day or every two, three days. She's a widow.
Q. And how does that take place? Do you call her, visit her?
A. Talk to her on the telephone and occasionally visit her.

9704385091 2

Q. How often do you visit her?
A. I would say once or twice a week.
Q. At her home?
A. At her home, yes.
Q. When you visited her, how long -- when you visit her, how long do you stay?
A. Half an hour, an hour depending on the situation.
Q. When you talk to her on the phone, how long are your conversations?
A. To touch base 15 minutes, 10, 15 minutes.
Q. And you say that's every other day or so?
A. Yes.
Q. Do you have a business address?
A. Yes.
Q. What's that business address?
A. 911 Northampton Street, Easton, Pennsylvania, 18042.
Q. How long has that been at that address?
A. Since 1952.

27043850913

Q. And what is your business phone?
A.
Q. Is that at the same address as the business?
A. Yes.
Q. Any other phone at that business?
A. Another phone line, just a fax line which is also another caller line one number up.
Q. Same number?
A.
Q. Do you have any number like
A. Not at my business.
Q. That doesn't sound familiar?
A. Yes.
Q. What is that?
A. That was the campaign headquarters phone number.
Q. Is that number still good?
A. No, not that I know of, no. I believe that has been disconnected.
Q. As of when?
A. As of the end of the November

9704385091 4

election campaign, mid-November 1996.

Q. And what's your phone number at home?

A.

Q. What is your birth date?

A.

Q. So that's -- makes you 44, is that correct?

A. Correct.

Q. Are you married?

A. No, I'm not.

Q. Any children?

A. No.

Q. Have you ever been married?

A. No.

Q. Do you have any siblings?

A. Yes.

Q. How many?

A. Two.

Q. What are their names?

A. Carol Anne Kilbanks and Susan K. Kilbanks.

Q. And what are their ages?

A. Carol Anne is 43 and Susan is, I believe, 41.

2704385091 5

Q. So you're the oldest?
A. Yes.
Q. Does Carol work?
A. Yes.
Q. What does she do?
A. She's a background animator, commercial artist.
Q. And her husband?
A. He's also involved in animation -- the animation industry in some capacity.
Q. How would you describe their financial situation?

2704385916

DUE TO THEIR CONTENT, PAGES 17-18 HAVE BEEN DELETED

27043850917

A. I have a bachelor's degree from Lafayette College in government and a secondary school teacher certificate in social studies also from Lafayette College.
Q. When did you secure those degrees?
A. 1974.
Q. The -- was it a BA from Lafayette?
A. Yes.
Q. And that was in 1974?
A. Yes.
Q. And then the certificate?
A. Also 1974.
Q. Any other kind of education?
A. I'm a realtor, and so I have continuing education courses through that, real estate salesman.
Q. Professional license or certificate? You already told us about the teacher certificate. Professional license?
A. I'm a licensed real estate salesman in Pennsylvania, licensed amateur radio operator.
Q. What is your current occupation?

9704385091-8

A. I am a realtor.
Q. Okay. Let's focus on that for a little bit. How many years have you been in the real estate business?
A. I've had my license since 1970.
Q. How did you first get involved?
A. My father started our business in 1952. The realtor business is Kilbanks Company and Realtors.
Q. So it's a family business?
A. Yes.
Q. Did you inherit it or take over the business from your father?
A. Yes.
Q. How did that come about?
A. He was president of Kilbanks Company and Realtors, a licensed Pennsylvania corporation. He was the president. And by my being executor of the estate, I stepped in as president of the company.
Q. What was your title before that time?
A. No special title at Kilbanks Company and Realtors, just a salesman.
Q. So you say that you're president

9704385091 9

of the company?
A. Yes.
Q. Who owns the company?
A. It's a corporation. 51 percent of the shares I would own, and that's -- my father had a partner who was involved.
Q. Can you tell me who that is?
A. Stanley Lysek, L-Y-S-E-K.
Q. What portion does he own?
A. 49 percent.
Q. Excuse my math in the earlier answer. Does he have a title?
A. He was vice-president.
Q. Do you have any other titles in relation to that?
A. No, I don't.
Q. And that business is located in Northampton?
A. Yes.
Q. How long has it been at that location? I believe you told me.
A. Since 1952.
Q. Thank you. Aside from Mr. Lysek, any other partners, employees, that sort of thing?

9704385092O

A. Yes. Well, there are independent real estate agents in the office.
Q. How many?
A. There's three others.
Q. How consistent has that been over the past five years or so?
A. They are mostly part-time agents. We're a small firm. Since I've been involved since 1983, that's been about the approximate size of the company, three agents and two principles, myself and Mr. Lysek.
Q. What are your business arrangements with the agents?
A. They are independent, self-employed individuals.
Q. Do they all work on a part-time basis?
A. Yes.
Q. At your office?
A. Yes.
Q. Do you or your business -- do you get a certain percent of their sales commissions?
A. The company does, yes.
Q. If there's another arrangement,

9704385092-1

please explain. Is that basically the way it works?

A. They get a percent. We get a percent.

Q. Is there a secretary that works there?

A. No, there's not.

Q. Who would answer the phone calls and that?

A. I have a live answering service that I utilize.

Q. Do you have a real estate license for the State of Pennsylvania?

A. Yes.

Q. Is it a broker's license?

A. My partner, Stanley Lysek, is the licensed broker, broker of record.

Q. But your license is a sales license?

A. Yes.

Q. And when did you get that?

A. 1970.

Q. Can you tell me about the courses or experience that were required for qualifying for that license?

9704385-0922

A. Well, going over -- when I've obtained the license, it was a matter studying real estate laws through the State of Pennsylvania and taking an examination.

And then since -- maybe since 1991 or '92 the state instituted a continuing education program where each agent must take -- basically two courses per year. I think it's 14 credits per year to maintain their licenses, which we've done at Kilbanks Company.

Q. The properties that you sell, what types of plots?

A. Commercial, residential. We do appraisal, consulting, handle rental, sell land. It's a small independent diverse-type of firm.

Q. Is there any one aspect of that that is primary?

A. Not really, no.

Q. You sell more -- for example, more residential than business?

A. I would say more residential. It depends on the year.

9704385092 3

Q. So how much of your income, if can you give a percentage, if you'd like, a rough estimate, would be based on the sales of commissions of homes?
A. From Kilbanks Company, I would say 60 percent or so.
Q. How many homes or properties did you sell in 1996?
A. I don't recollect that right offhand here.
Q. Did you sell any? I suppose I should break this down between the company and yourself, but I'm mainly concerned with you yourself.
A. I don't recollect the exact number. I would say under 12.
Q. Did you sell any in 1995?
A. Yep. To my best recollection, I think it might have been again under 12 or so.
Q. And these are houses that you actually were -- you actively sold yourself?
A. That I either represented the buyer or listed.
Q. Rather than the sales agents that worked out of the office?

9704385-0924

A. Right.
Q. Can you give a rough idea going back further than that, say, per year, back a few more years, houses that you sold?
A. There was a period of time where I was managing, you know, my father's estate as executor, and that took a primary amount of my time.

I don't recall how many homes I sold during that period in the late '80s or early '90s.
Q. When were you busy with your executor duties, roughly?
A. Since 1985 -- 1985 to 1990, primarily. And then I had power of attorney for my father previous to that for two or three years since 1983.
Q. Do you have you any current real estate listings?
A. Yes, I do.
Q. How many?
A. One real estate listing right now.
Q. I'm trying to get an average maybe at any one time?

2704385092 5

A. I might have maybe two or three myself.
Q. And has that been pretty consistent the past few years?
A. Yes, I'd say so.
Q. What about going back to when you were executor for your father's estate?
A. That would be about that number.
Q. Did that -- your duties as an executor, did that cause you to curtail your real estate activities?
A. Yes. That took a primary amount of my time because it involved management of significant real estate investment, rental properties that my father owned.

He had one very large real estate investment with a significant cash flow, and that took some time to manage that.
Q. Can you give a rough idea of how many hours a week you spend on the business or if you rather, per month, any way that's convenient for you?
A. Yes, at least six hours a day.

MR. SMITH: What period of time are we speaking?

2704385092926

Q. Let's start with this year in the last couple of weeks and we can move back.
A. This year -- this was the campaign year, of course. So prior to the primary, I would say it would average six hours a day.
Q. Excuse me?
A. And then decrease sometime after that.
Q. So we're talking about 1996 to get it straight. So in early 1996 your activities were focused on your campaign?
A. (Witness nods head.)
Q. I'm just trying to get --
A. Later in -- since March 1996, the campaign time intensified.
Q. Let's say how many hours a day were you working on your real estate activity during that time?
A. When the campaign time intensified, maybe two hours a day. Real estate is something you can handle over a telephone once you have your listings, put those listings in the multiple listing book. Let other companies sell those homes.

9704385-9927

So it works in nicely with political campaigning.

Q. Let's break it down between the primary and -- in April, is that when it occurred last year, the primary?

A. Yes. Yes it was April 24th, I think the primary was.

Q. So from the beginning of 1996 to the primary in April, what would you say, two hours a day for your real estate activity?

A. No, I would say five or six hours a day. And then as we got in the summer, the time decreased.

Q. To two hours a day?

A. Two, maybe three hours a day or certainly touching base with the answering service.

Q. All the way to --

A. Talking with my agents over a telephone in the midst of campaigning. Political time and real estate time become intertwined. But it's a business that you can partially conduct by telephone.

Q. What about after the November election on November 5th, I believe?

9704385092928

A. At least six to eight hours a day right now.
Q. Was it right after the campaign that you shifted back into full gear with your real estate?
A. Yes.
Q. What kind of payments do you make associated with the Northampton business address?
A. Well, you have Kilbanks Company and Realtors, that entity owes corporation taxes, of course. The costs of running the business, the answering service, telephone and license fees, multiple listing fees and then the company is located in a property located at 911 Northampton Street.
That physical property, of course, is -- there are water bills, three rental apartment units there, electric bills, electric utility bills, property taxes.
Q. Who owns the property?
A. The property is actually in the name of my two sisters and I. And I think the mortgage is in the name of the estate of Lester Kilbanks also.

9704385 09229

Q. So the property is not actually owned by the business?
A. No, it is not.
Q. Is it owned equally by you and your two sisters?
A. Yes.
Q. And what -- is there a mortgage on it?

9704385093O

9704385093 1

Q. Okay. Please give us a history of your other employment background, if any, whatever way is easiest for you. Let's say 1996 going back to 1990 or vice versa.

A. Starting from the present, Kilbanks Company and Realtors. I'm self-employed as I may have mentioned or not. I've had a license there since 1970. I've

been actively involved there since 1980. So 1980 to 1996, I've been self-employed under and worked with kilbanks Company and Realtors.

From 1978 to 1980 I was employed by the Citizens for the re-election of Congressman Dan Marriott, M-A-R-R-I-O-T-T, and also employed by the federal government with Congressman Dan Marriott as his special assistant in Salt Lake City, Utah.

Prior to that I worked for the Snowbird Corporation in -- located in Salt Lake City, Utah, hotel, condo resort.

Prior to that I was in college and, of course, had the license with Kilbanks Company and Realtors selling real estate, performing odd jobs for the company.

That's a general history of my employment.

Q. Fine. Thanks.

A. One other place of employment was part-time. I was employed by the Camelback Ski Corporation in Tannersville, Pennsylvania.

(R. Kilbanks Exhibit Number 1 was marked for identification.)

9704385093 2

Q. Do these documents look familiar?
A. Yes.
Q. What are they?
A. These are my federal tax returns.

9704385093

DUE TO THEIR CONTENT, PAGES 35-37 HAVE BEEN DELETED

9704385094

Q. Now, let's focus on your campaigns for elective office. You can set that aside for the time being.

Had you ever run for an elected office before 1994?

A. Yes.

Q. Can you describe the circumstances?

A. Elected office -- a delegate to a convention in my college days, not an official elected office, no.

Q. The first official elected office would be the 1994 congressional campaign?

A. Correct.

Q. What attracted you to running

9704385093 5

for congress in 1994?

A. I have had a continued concern about the state of our income. And being in real estate, I see the difficulties that have arisen in home affordability, increased rent, high taxation, inflation and pressures on individuals in the American family.

And I feel I'd like to be part of the team of people that would like to make a better living for Americans and their families.

Q. So when did you first contemplate or explore the possibility of running in the 1994 primary?

A. Is wasn't until January 1994.

Q. The things you just told me about the reasons that you were running for office, they were all concerns of yours in years before 1994, right?

A. Yes, as a concerned citizen, yes.

Q. Did you have any desire to run for congress in this district before 1994?

A. No.

Q. Did you -- why not?

9704385093 6

A. I wasn't sure that I was suited for, you know, the throes of politics. I had the concerns I mentioned from the vantage point of a concerned citizen, and I participated in private sector activities, you might say, to enlighten citizens to the cost of housing, surrounding issues.

So I was on talk radio shows, I was mentioned in many newspaper articles. I was trying to bring to light information about the banking system, bank mergers, the federal resolve power, high interest rates, these sort of things in the 1980s.

So this activity was not in line in running for U.S. congress. I intended just to participate occasionally and inform the public.

Q. This activity that you're talking about, when did you participate in it?

A. From 1980 to 1989 or so.

Q. The people that you met, the citizens that you talked to, did anyone encourage you to run for congress?

A. I don't recall anyone bringing

9704385509937

that up. My project was to inform citizens through the media and to inform our representatives and to be a project with the public media.

Q. They never suggested in any way that --

MR. SMITH: Just to clarify, this is during the period of time that he was during what he terms activities?

Q. To make it broader, anytime before 1994?

A. I did not intend to run for congress. We had a very good congressman here in this district and there wasn't any need for me to run for congress. And then I did not view myself at that time as a potential congressman.

Q. What prompted your decision in January 1994 to run for congress?

A. A friend of mine, David Price, was intending to run for U.S. congress. I was to be his campaign manager.

And he seriously went about exploring his intention to run for U.S. congress. And I made trips to Washington,

9704385093 8

D.C. with him to the House Administration Office, the Federal Election Commission office, all for him, and he -- after getting a better understanding of the consumption of time necessary for running for congress, he decided not to run.

I suddenly felt like someone with the same concerns that he had, concerns of high cost of living, again, upon the American family, that we should have some candidate. A candidate should run for office.

And it was a very last minute sort of spontaneous decision. And that was in January 1994. I did not know that I was going run for U.S. congress until that January 1994 after David Price decided not to run.

Q. When did he make the decision not to run?

A. January 1994.

Q. What time previously to that had he made a decision that he might run?

A. It was in -- I believe it was December 1994.

Q. So the activities that you

9704385093 9

previously discussed, going to Washington, exploring the possibility and so forth, when did those occur?

A. Those may have been September -- even September 1994 on -- for David Price, I mentioned December 1994. Sometimes it's difficult to recollect these dates and the chronology.

It was that later -- '93, excuse me, in September. Somewhere between September and December we went to Washington, D.C. and explored these different possibilities for him.

Q. So how did it come that he made the decision not to run and you made a decision to run? How did those relate to each other?

A. He decided not to run, as I mentioned, because he has a small family, two sons, a wife. And he will tell you this happily. He saw a video about Dan Quayle's life in the Senate when the Senate was in session until all hours of the night, showed the family at home waiting for the father to come home.

9704385094O

And this was broadcasted on NBC on Nightline or one of the programs and this gave him great concern having young children. I think the ages were nine or ten or less than that.

In addition to that, we knew that that the amount of time was a problem for someone who had a family. We called the Congresswoman Pat Todar's office and those that were working on family friendly legislation.

So considering those things, he decided not to run. And I was, again, intending to be his campaign manager and to continue with the kind of roles I had in congress with Marriott, always an assistant not in the public spotlight.

Q. So he made the decision not to run in January of 1994, is that correct?

A. Yes.

Q. Was it early January?

A. As I recall, yes.

Q. And then how many minutes, hours, days, did it take you to decide?

A. I think it was about two weeks,

9704385094 1

approximately two weeks afterwards.
Q. Did he encourage you?
A. I don't recall that he did or did not.
Q. Did you discuss it with anyone in January?
A. Yes, I did.
Q. With who?
A. There was another gentleman that I knew, Glenn Kosubal, K-O-S-U-B-A-L. I can't recall who else I talked with then specifically.
Q. That was in January of 1994?
A. Yes.
Q. Did you talk with anyone prior to January 1994 about running for congress?
A. No.
Q. Aside from Mr. Kosubal, did you discuss it with any friends?
A. I don't recall specifically. You know, I think that my partners in real estate may have been asked what they thought in that time frame. I don't know that they were actively involved in discussions.
It was a very spontaneous

9704385094 2

kind of last minute decision, we're talking 1994 and that was the nature of that decision.

Q. These real estate people, who are you referring to?

A. Perhaps -- well, Stanley Lysek and his son Keith.

Q. Was that in January 1994?

A. Yes.

Q. Never discussed that with them previous to that time?

A. (Witness shakes head.)

Q. At that time did you discuss with anyone else aside from friends; party activists, for example, newspaper reporters?

A. Newspaper reporters and party regulars will tell you when I filed on March 1st, roughly, 1994 with 1,000 plus signatures. They were totally surprised.

And that was the nature of that decision. I was an -- a public activist in the private sector on talk radio, on talk TV, on news programs regarding housing, banking issues, interest rate issues, not a candidate for public office and not interested.

9704385509943

Q. What are you referring to when you say you filed on March 1st, 19467?
A. I filed to be on the ballot in 1994 to run for U.S. congress. In the State of Pennsylvania, 1,000 signatures are required to be on the ballot.
Q. When did you get those signatures?
A. In the required, you might say, signing petition period. I believe it was the second week of February to the last week of February 1994, three week period.
Q. So when did you start talking to other people about it aside from Price, Kosubal?
A. I started talking to other people at the beginning of or during that three week period where 1,000 signatures were required.
Q. In February of 1994?
A. February 1994.
Q. Were you on any talk shows or things that you had mentioned during January and February of 1994?
A. No, I was not.

2704385509444

Q. The petition that you had signed by 1,000 people, was your mother one of those people?
A. I don't recall. I believe she was. One would need to be a registered republican at that time to sign that petition.
Q. So you don't recall if she actually signed it in February?
A. I don't recall offhand. I would assume that she did. I believe she did, but I don't know.
Q. Is that document -- filing document, the signatures, are they available?
A. Yes.
Q. Do you have them in your possession?
A. Yes, I do.
Q. Do you have this -- do you have the petition with the signatures?
A. Yes.
Q. Would they show the dates of the signatures?
A. Yes.
Q. Would it be possible to provide that to us?

9704385094 5

A. Yes.
Q. So is there a date on which you made a declaration or an official announcement of some sort?
A. There was a press conference after the signatures, probably March 1994.
Q. It was a -- it was covered in newspapers?
A. Yes.
Q. Did you schedule that conference?
A. I did or my campaign manager, David Price.
Q. So he became your campaign manager?
A. Right.
Q. So you're not sure if your mother actually signed the petition in February of 1994, is that correct?
A. It depends if she registered republican in that period of time. I need to check.
Q. Did you discuss your candidacy with her in early 1994?
A. I don't recall specifically, but

9704385509946

if I did, it would only be in that period of January 1994. Again, my mother only knew me as a public activist from time to time. This wasn't an every day pursuit or every year pursuit. From time to time, I would inform the public about issues that concerned me.

Q. So after Mr. Price decided not to run and a few weeks later, a couple weeks later, you decided to run.

When you made that decision in January or the later part of January, did you have any conversation with her about it?

A. I would assume I did at that time. I mean, once the signatures were being obtained, obviously she knew what was happening.

Q. What was the nature of the conversation?

A. I don't recall the specific conversation. I believe she would have heard me say that a candidate needs 1,000 signatures in order to be on the ballot.

Q. So --

A. She would have heard me say

9704385509947

we've got to get signatures.
Q. Did she help at all in that?
A. I don't believe she did to any great degree, no.
Q. What was her general reaction to you deciding to run for congress?
A. One of general encouragement.
Q. Do you remember what she said?
A. No, I don't.
Q. Did you ever tell her that if you had talked about it with others when you -- when you brought up the subject with her, did you tell her that you had been thinking about it beforehand?
A. I don't recall saying that or getting into discussions of that nature with my mother.
Q. You don't recall having discussions concerning your financial situation at the time, referring to early 1994?
A. No, I don't recall discussions like that.
Q. She never brought up the subject?

9704385509448

A. I don't recall.
Q. You don't recall?
A. I don't recall any specifics, any discussions.
Q. What about just your general campaign activity? Did you tell her what you were doing, how much time you had spent doing it, where you were traveling and so forth?
A. I don't recall specifics that I may --
Q. Let's set the time frame between 1994 until the primary election, which please remind me when it was in 1994?
A. 1994 the primary election was May 10th, 1994.
Q. So between January 1st and May 10th, do you remember having any discussions with her about your campaign at all?
A. I don't recall any specific discussions. She knew that I was the candidate.
Q. When was the earliest?
A. When was the earliest, I don't recall specifically. But as I mentioned earlier, it probably would have been during

9704385509949

that petition signing period or just the week before that. Nothing could have been before January -- late January 1994.

Q. What kind of campaign activities did you undertake after your announcement?

A. I held the press conferences, attended forums and debates.

Q. Anything else?

A. Conducted -- basically that was it.

Q. Did you prepare speeches?

A. Yes.

Q. Did you give interviews?

A. Yes.

Q. Did you appear on talk shows?

A. Yes.

Q. Radio?

A. Yes.

Q. TV?

A. Debate on TV, yes.

Q. Who was involved with you in promoting your election?

A. A very small group of people. Mr. Price, my campaign manager. There were very few people. It wasn't any time to build

9704385 0950

an organization at all. So it was not a very viable campaign.

Q. Anyone else besides Mr. Price?

A. I wasn't even a candidate in the eyes of the election commission. So we didn't have the organization of a real viable campaign.

I had supporters. Friends of mine that were supporters. And as I took to the stump, there were more supporters.

Q. What did they do?

A. They didn't do much in the way of campaigning. I just know that they helped me secure votes in their own way. Some might have been committee people that weren't going to support the party's choice, James Yeager.

They weren't going to support him, so they said they would support me. What they did, they did on their own. I don't even recall any campaign meetings since the announcement.

Q. What did Mr. Price do?

A. He handled some of the arrangements for debate appearances. I believe there were five debate appearances

2704385095

during that campaign.

It was a very part-time task for him.

Q. When did he first get involved in doing those activities?

A. I would say in March 1994.

Q. Did the campaign place ads in newspapers or billboards, radio ads, that sort of thing?

A. No, it did not.

Q. You never took out any ads whatsoever?

A. No, not that I recall.

Q. Did you ever prepare any signs or flyers or anything like that?

A. Yes. The campaign prepared some flyers, a minimal amount, maybe two mailings of 300 pieces each to the republican committee people. And the campaign purchased probably 100 signs. yard signs.

Q. When did those activities take place?

A. In April, 1994.

Q. Who paid for those?

A. I did from my personal funds.

9704385095 2

Q. Do you remember the approximate cost of those expenses?
A. I don't recall the cost of those expenses specifically, but I know the campaign spent less than $2,000, approximately.
Q. And that was from you?
A. Yes.
Q. Okay. Let's focus just on your activities. You said you did debate, appeared on talk shows. What else, a lot of phone calls, traveling, that sort of thing?
A. Not a lot of traveling other than to events or forums.
Q. How often?
A. I'm going to -- maybe two or three -- two, three nights a week, two, three, four nights a week.
Q. Did your level of activities slowly increase towards the May primary?
A. Yes, as would happen in any campaign.
Q. So it got pretty busy the closer you got to the primary?
A. As I recall, yes. It was a campaign of mostly evening events.

9704385093

Q. Can you give an estimate of hours per day, hours per week from January to May?
A. I would say four hours a day, five or six days a week toward the end of the campaign, late April, early May.
Q. And before that?
A. I would say three hours a day, two, three hours a day.
Q. As things got busier, did you curtail your real estate business activities?
A. Yes.
Q. Do you remember to what degree?
A. I would say minus the time I just mentioned for the campaign time needed. Evenings could not be spent in real estate. They had to be spent on the campaign attending forums and debates.
Q. So aside from the $2,000 -- correct me if I'm wrong, what amount did you spend?
A. Approximately $2,000.
Q. Did you spend any time fundraising?
A. No, I did not.

9704385095 4

Q. No financial support from friends or supporters?
A. No.
Q. Did your mother assist you in any way?
A. Not specifically, no. I'm trying to think. Not that I recall.
Q. Not necessarily financially, but just -- did she participate in any activities?
A. No, not that I recall.
Q. Did she offer to?
A. She may have attended a debate. Attended a debate.
Q. Did she offer to help out with your living expenses at the time?
A. Not in any specific way. I had received gifts before.
Q. What kind of gifts?
A. Well, since 1990 my mother realized that she had a fairly large estate and that it would be wise for her to divest that estate.

So gifts were given to her children since 1990, and one of those recipients of those gifts was me.

9704385095 5

MR. ANDERSEN: Can we take a break?

(A brief recess was taken.)

BY MR. ANDERSEN:

Q. Okay. Mr. Kilbanks, let's move on to the 1996 election. How was your approach different in the '96 election as opposed to the '94 election?

A. I understood from talking with party leaders what a true viable campaign would require. And that's the most significant difference between the '94 campaign and the '96 campaign.

Q. When did you first contemplate running in the 1996 campaign?

A. Not until January of 1995.

Q. Can you explain that?

A. Yes. I lost the primary in 1994. Jim Yeager was the republican party nominee who subsequently lost the general election in November 1994. He lost by only 471 votes out of 150,000 votes cast. He was a good candidate, and we shared similar views.

It was my intention to work for him again. And I expected him to run

9704385095 6

again in 1996. We had lunch in January 1996. I expected him to tell me he was going to run again.

Q. Don't you mean 1995?

A. 1995, right. And he indicated to me at that time that he was not going to run for U.S. congress. And that if I wanted to run, that he would support me. And I was not intending to run for U.S. congress.

Q. So what steps did you take in January of 1995 in running for congress?

A. I did not take the initial steps. Those were taken by a group of party leaders who drafted me and asked me if I would run for U.S. congress. And that was in later January 1995.

I thought long and hard about it. And after realizing that there seemed to being significant support, both in organization and financially, that I should try again.

It was then that I decided to run for U.S. congress in the 1996 campaign.

Q. In January 1995?

A. January 1995.

9704385095 7

Q. So you discussed it with Mr. Yeager, you discussed it with party activists?
A. Party leaders.
Q. What else?
A. I would say at that time friends and family members in that January 1995 period of time after that January meeting with Jim Yeager.
Q. What discussions did you have with your family members?
A. I don't recall specifics. I generally remember asking them if they thought I should run again.
Q. What were their reactions?
A. Generally positive.
Q. We're still talking about January?
A. Of 1995.
Q. Did you discuss it with your mother?
A. I believe I did. I don't recall specifically.
Q. Which family members?
A. I think my two sisters, my mother.

9704385095 8

Q. Do you recall her reaction, your mother's reaction?
A. My mother was always encouraging, as my father was, that we should strive to improve our lives and prove ourselves and help the community in some way.
Q. Do you remember what your mother said?
A. No, I don't.
Q. Did she offer to support you?
A. Yes.
Q. In what manner?
A. Just supporting me, encouraging me, help to go get votes for me. She actively participated in the '96 campaign.
Q. Can you describe her participation in that respect?
A. She attended events and rallies, organized her friends, the Garden Club, so to speak, women that were interested in my campaign.

She made phone calls. She helped to cover poll places on election day. She contributed financially in the -- in the 1996 primary and the 1996 general election.

9704385095 9

Q. When did she first participate in these activities that you just mentioned?
A. The most intense participation from my mother was in -- during my announcement event, there were over 300 people that attended an announcement event. I just can't recall when that was. It was late -- I'm trying to think of the month. I just don't recall the month. It will come back to me.
Q. Sometime in early 1995?
A. I think it was late 1995.
MR. SMITH: Do you have a estimate, a season?
THE WITNESS: Fall of 1995.
Q. That's okay.
A. Yeah I believe it was the fall of 1995.
Q. When you first discussed the campaign with her in January 1995, did you anticipate that she would support you financially?
A. Yeah, I thought she would, yes.
Q. In what manner?

27043850960

A. By making, you know, political campaign contributions to my campaign.
Q. Anything else besides contributing to your campaign committee?
A. No.
Q. You didn't anticipate that she would support you in terms of your living expenses while you were running?
A. I knew that I would be receiving gift money as I had in 1990, 1992, '93 and '94, as a result of her large estate and the challenge of divesting the estate.
Q. So you had an expectation of receiving gifts from her?
A. Yes, as I had customarily prior to -- to January '95.
Q. You had expectations to receive them throughout 1995?
A. Yes.
Q. Throughout 1996?
A. Yes, if it was available, yes.
Q. What was that expectation?
A. Basically that each year she was gifting to me amounts of money that I knew would even reach 40, $50,000 or so per year.

9704385096 1

So I kind of had that in my mind as -- there was gifting that had occurred previously.

Q. So let's take 1995. What expectation did you have or should I say what amount did you have in expectation of receiving?

A. Anywhere from $34,000 to $50,000, whatever.

Q. What was the basis for that expectation?

A. Because in 1994 the gift amount, I believe, was 34, $35,000. And many gifts were received prior to that in lesser amounts but the estate was growing too, bank stocks and others that were increasing.

Q. Did you ever discuss that expectation with her?

A. I was, you know, aware of some of the factors in her estate and the size of her estate. I had managed my father's estate. She's a widow. I'm her son. It's family, you know. We're close that way.

Q. What did you discuss -- did you discuss -- what did you discuss as to expectations of amounts you might receive in

2704385509662

1995?

A. Nothing was really discussed other than we knew -- we had a large estate, that it had to be divested and, you know, she knew what that entailed.

Q. Did that influence your decision to run?

A. No, it did not.

Q. You would you have run even if she had not given you anything?

A. Yes.

Q. Knowing how much campaigns cost, how would you have financed your campaign without it?

A. I would do exactly what I did and get on the telephone and raise money from individuals, hold fundraisers. And you know, as it turned out, the campaign raised about $200,000 from individuals and political action committees other than contributions from myself.

So I was knowledgeable and gaining the knowledge of the skills necessary to do that, to raise money. I didn't need her money.

9704385509633

Q. When did you first start actively campaigning for the 1996 election?
A. I would consider my announcement event my first major public event, which I described as fall of 1995.
Q. So what happened between January 1995 when you first decided and August, what kind of activities?
A. There were occasional organizational meetings, campaign meetings and my own personal contacts with republican committee people in the field, meeting with them in their homes, in the businesses, to build a political organization, a network that would hopefully take us to victory.
Q. Any other activities?
A. Not that I recall other than building a grass roots organization and fundraiser.
Q. During 1995 from January until fall when you announced, how many hours a day per week would you spend on your campaign?
A. I would say approximately two hours per day. In that period when you're raising money, a good candidate should spend

9704385 0 9964

some time on the telephone each day. It should be an hour or two each day to raise money.

Q. What about after your announcement? Are we still not specific as to the time? Are we still just calling it fall of 1995?

A. Yes, I believe it was in November.

Q. After you made your announcement, what kind of activities did you engage in?

A. I engaged in all the necessary related activities to campaigning, fundraising to individuals over the telephone, personal visits to committee people, preparation for debate, door to door campaign.

Q. Can you estimate your hours per day or per week?

A. I would have to say what started with just two or three hours per day, as we got into the fall of 1996, it was virtually all day maybe from September to November of 1996.

Again, I could make real

9704385 0965

estate calls on the telephone during the day. Take my files with me to my campaign headquarters, work on my listings in between.

Q. How did it affect your real estate business?

A. Well, it's -- it can be a sacrifice. It just depends what kind of deals you have and how they come through for you.

Q. Why don't we just focus on 1996, the primary being in May 1996, is that correct?

A. April.

Q. April. May was 1994?

A. Right.

Q. Excuse me. Let's first talk about from January to April to the primary and then from the primary to the general election in November.

How busy were you with your campaign from January until April 1996?

A. Fairly busy. I had done a lot of ground work prior to that, meeting with committee people in the evenings. But my days were still open for real estate. Again, that's a matter of how you use your time.

9704385509666

MR. SMITH: Excuse me. If you're interested, I have a letter identifying here the campaign kickoff was on November 18th, 1995 at 10 a.m.

MR. ANDERSEN: Thank you.

Q. If you hadn't been running in the campaign during that time from January to April, would you have been able to stay as busy in your business as you did or devote the same amount of time?

A. If I hadn't been as busy in the campaign, I could, of course, have devoted more time to real estate.

Q. So is it fair to say that your real estate activities were curtailed as a result of you running from -- I'm talking about from the period of January to April?

A. In 1996?

Q. 1996, last year.

A. 1996, to an extent, yes.

Q. How many hours per week on each, can you give a rough estimate, or day if you prefer?

A. I'm going to say maybe two -- I

9704385509967

would spend maybe two to three hours per day on real estate.

Q. And the campaign?

A. That would be the remainder of the day and, again, the evenings.

Q. Roughly number of hours?

A. Can be ten hours on a campaign, maybe three hours on real estate. It can take that much of a day. I worked until midnight, 1 a.m.

Q. How about for the period for the general election, which was from April -- the primary in April to November, same question.

How did you divide your time up between real estate and the campaign activities?

A. I think I would say it's still that same mix, real estate moving down two or three hours per day. Campaign day might still be -- it could go from -- can be 12 hours a day.

Q. Did there come a point as the November election drew closer that you refrained from doing real estate altogether or other jobs that you may have had?

2704385509668

A. There were some days like that. But I try always to maintain touch with the answering service, with agents, my listings, my clients. It's kind of a flow that you try to maintain.

Q. Were you continuing to talk with your mother often?

A. Yes.

Q. Was she -- did you tell her how busy you were in your campaign?

A. I think she knew that I was busy.

Q. For all of 1996?

A. Yes.

Q. Did she -- did you ever have any discussions of a financial nature?

A. Yes, at times, yes.

Q. What were those discussions?

A. Well, that, you know, campaign takes a lot of time and sometimes you have, you know, financial pressures. So I would describe those to her, not all the time because they didn't exist all the time. But when there were crunch periods, yes, maybe.

Q. Did she offer to support you

9704385509969

financially?
A. Well, of course, yes, in that she always had -- in those years prior to the candidacy. So there was always that feeling that I would receive monies. She was divesting the estate.
Q. Do you remember the nature of those conversations?
A. Well, sometimes -- she knew that I was, you know, busy with the campaign. And as in the past, though, she would write out a gift check to me.
Q. What prompted her to do that?
A. Again, she knew and she had been divesting her estate. And that every so often she would write a check out to me and this continued in '96, in '95 as it had '94, '93, '92 'and 90.
Q. Did the fact that she knew you were busy with your campaign influence her gift giving?
A. Not in any way different from any other year previcus to the intensity of 1996.
Q. Did it ever -- we'll take any --

9704385-0970

you say not in any other year?
A. It did, yes, but again not in any way that was different from any other year before.
Q. Give an example how would it affect her gift giving?
A. Well, she knew that I was busy campaigning in 1996. She had given gifts, you know, previously over the years. And I think she was more sensitive that the gifts should be given to, you know, maintain the divesting. And the recipient in this case, me, had needs from time to time.
Q. Did her gift giving coincide with those needs?
A. At times, yes, at times, no. At times they came on the regular basis as you have seen in the records, you know, $2,000 here, $3,000, whatever. And at other times it might have been a financial pressure or something.
Q. Well, at the times that it did coincide with the needs, we can take 1996, what were those needs?
A. I recall the type of situation

2704385097 1

might be when a property tax was due or some large amount, school tax on the property or something and maybe she sensed that.

But again, the gifts that were given were just given as they had been previously.

Q. And did you make her aware that you were busy with your campaign and ask her or discuss with her any expectation of her changing her pattern of giving?

A. It was infrequently. A lot of times she would say do you need some money. Here's your check or whatever as had been done monthly previously.

Q In response to what?

A. Just a general, I'd say, observation of the business that I was in in the campaign. And just sensed that it was a good time to get a check.

Q. So you stated she would say something to the affect that do you need some money and what would your response be?

A. I would say yes, at times, no. At other times sometimes I could carry myself from the income with the real estate,

2704385097 2

sometimes it was tight.
Q. But the times you said yes, did you give a reason to her?
A. Sometimes, but not all the time. I think less more than often.
Q. The times that you did give a reason, what was that reason?
A. As I mentioned, it might be property tax is due, a large amount like that. I think there was insurance premiums, quite large at that time that we kind of know about as a family.
Q. What about living expenses? Do you ever bring that up to her?
A. Not specifically, no.
Q. What about campaign expenses, did you ever raise that issue?
A. Not really, because, you know, these gifts were just given over the years.
Q. Did she give you money even when you said that you were doing okay financially?
A. That could have happened, yes. I don't recall the specifics. But if I knew that I was going to receive like $40,000 over the course of a year, that thinking was in her

2704385097 3

mind and my mind, you know. How the money came or went -- she had given along that pattern before.

Q. Was she giving gifts to your sisters at this time or any time?

A. I don't know specifically. I know that she would.

Q. Was it based on their needs?

A. I would assume -- I don't know specifically. But if they had a need, she would help them. I know that.

Q. Would she give them money even if they were doing okay financially?

A. I'm not aware of that.

Q. I'm just asking your awareness of it.

A. No.

Q. Okay. Let's -- we discussed your earned wages before. I'll try to make this as quick as I can. I'd like to go over your assets and income. Maybe we can do this pretty quickly by looking at your tax statements again.

I'm going to ask you to walk us through your assets and income

9704385509974

business and personal and both earned and unearned.

Let's include all monetary and non-monetary gifts you received, bequests, devises, trust, income proceeds or income proceeds as executor. Try to capture it all in here so we know what's going on. Real property incomes, stock dividends, sale of stocks, lottery, gambling proceeds, everything.

MR. SMITH: What about debts incurred?

MR. ANDERSEN: Yes.

Q. The only thing we will set aside for now are funds that you received from your mother and, of course, the wages that you've earned and you've already discussed.

So you're welcome to use your taxes to refresh your memory. Perhaps we can start from 1990 and up to the present.

MR. SMITH: Debts incurred by Mr. Kilbanks and owed to Mr. Kilbanks.

MS. KLEIN: Sure and an explanation of what they were.

2704385 0975

Q. Started on page three. I believe that's your individual tax return for the year 1990. Is it not?
A. Yes. On page two, right?
Q. Okay. Again, you can use these figures to refresh your memory, but I'm going to ask you different categories of income and you can tell me if you know and you can refer to that.

2704385097 6

DUE TO THEIR CONTENT, PAGES 80-96 HAVE BEEN DELETED

9704385097 7

9704385097 8

Q. Any debts owed in relation to your campaign?

A. Debts that I owe the campaign or the campaign owes to others?

Q. Both.

A. I don't owe the campaign

anything. The campaign owes presently a very small amount, I think $1,000 or less.

(R. Kilbanks Exhibit Number 2 was marked for identification.)

Q. Mr. Kilbanks, you can take your time and look over those checks. What I'd like to know, these are basically all the checks paid to you by your mother since 1990. And I'll tell you what, we should introduce the --

MR. SMITH: As I understand it, these were the records that we produced to them in response to the subpoena.

(J. Kilbanks Exhibit Number 3 was marked for identification.)

Q. And I will introduce another exhibit for checks that were not produced to us that appear to be bank statements.

If you could just look over those and answer if those appear to be all the checks from your mother since 1990.

A. Yes, it appears that these are the checks that were given from my mother to me.

MR. SMITH: And the bank

2704385-0979

statements?

THE WITNESS: And these are the bank statements showing -- recording check numbers and amounts of gifts from my mother to me.

Q. Could you please walk us through step by step how these checks came to be issued to you as a general rule?

A. Yes. And I think's very important to note that the amounts of these checks and the manner in which they are given are part of a custom of giving, if you will, that goes back to 1983 when I was executor of my father's estate.

I provided these same types of checks in these same types of amounts for my mother managing some significant real estate investments and cash flow.

She then began giving and gifting to me since 1990 similar checks in the similar amounts in order to divest her estate. And that is a description of the general custom of the amounts of checks, the types of checks and the timing of the checks, there being several checks per month ranging

9704385509800

anywhere from $7,000 to $10,000, $9,000.
Q. Okay. I'm not sure I understand what happened previous. You wrote checks out to your mother?
A. Yes.
Q. In what capacity?
A. As the executor of the estate of Lester Kilbanks.
Q. That was the account, that was the name of the account?
A. Yes, yes.
Q. But correct me if I'm wrong, you didn't -- he didn't pass away until 1985?
A. Correct.
Q. What was happening in 1983 to 1985?
A. He was in a stroke condition. I had the power of attorney, and then I was managing a cash flow, taking care of his debts, which were quite numerous, and his other investments and my mother.
Q. But the name of that account was still estate?
A. Of Lester Kilbanks.
Q. Okay. And can you get into that

9704385098 1

relationship between what you just talked about and your mother's gifts? I'm not quite sure I understand that, either.

A. Yes. There was, you know, a strong family bond there, and an expediency that someone managed this cash flow and provided for my mother and make decisions on these investments to maintain that cash flow.

And from the years 1982, '83 roughly to 1990, I have provided these same types of checks ranging from $1,000 to 9, $10,000 to my mother, Jacqueline Kilbanks.

She being grateful for then, and having to divest her estate and being the son who's in the area all the time and near her, she has kind of returned the favor in this gifting to me.

And that's the genesis and kind of the history of the general nature of this kind of giving, which may be unique but that's how many years it goes back. And it can be shown, also.

Q. What's the relationship between the amounts that -- of the checks that you wrote out to her and the amounts that she

2704385092

wrote out to you?

I gave to her in that she had needs. I helped to provide for those, you know, needs kind of on an as needed basis.

She is in a different situation in that she has to go through this divesting. And the pattern she's chosen is, you know, similar in nature as what happened from 1983 when my father had the stroke to 1990.

Q. When you say similar nature, do you mean from year to year or total amount?

A. I say from -- not only similar in that there are several checks per month that are of a similar nature to the checks from 1990 to '96 and the total amount per year is similar.

Q. And the checks that you wrote her, can you give a rough approximation of the total amount entirely from 1983 to 1990?

A. Yes, it was approximately a year, as I recall.

Q. What happened in 1990 such that you stopped writing the checks?

A. In 1990, as executor I sold one

9704385093

substantial real estate investment that my father held. And as a result of that sale, and -- following the will of Lester Kilbanks, a marital trust was set up where the income would provide for my mother.

That is one event that took place. The other was that her father had passed away in 1989. So the two significant family events that occurred there, there were substantial investments which causes divestiture.

Q. So generally the amounts that she is giving you from year to year bear a relationship to the amounts that you gave to her as executor?

A. Yes.

Q. Does that mean it's going to run out in a few years? Is she going to keep giving after that as far as the relationship between what you gave her and what she's giving you now?

MR. SMITH: As far as you know. If you know her intentions in the future.

A. I believe her general intentions

9704385509984

are to keep gifting. From my side of the things, that's what I understand.

Q. Okay. As far as the individual gifts, how would she approach you? Let's start back at 1990 as a general matter. In other words, did she just give you the checks out of the blue, hand them over to you before she discussed them with you, tell you to come pick them up, tell you what amount she was going to write them for?

MS. KLEIN: One question at a time here.

Q. Just giving you examples here.

A. It was a combination of things, combination of her saying, here's a check for $2,000 or her saying -- seeing a tight financial situation as with what happened with the rent or sensing that with the overdue rent.

Q. How did you make her aware of that?

A. I mentioned it to her as I mentioned earlier in the testimony that type of situation. As I said earlier, too, occasionally something would come up where I

9704385-0985

would mention something. But that was not all the time.

Q. You mentioned the time --

A. Property taxes, insurance payment and the overdue rent situation.

Q. Along with mentioning what it was for, you also suggested amounts?

A. In some instances perhaps, yes.

Q. And she would generally -- would she generally write out the check in that amount?

A. No, she would write the check out in the amount that continued with the same pattern that had been occurring in that 1990 to '96 period or the 1992 to 1996 period. Pretty much even amounts, even dollar amounts.

Q. Can you give us an example?

A. I think if a property tax was due for $1800, you know, the check would be written for $2,000 in that singular instance.

Q. Did she write the checks in your presence?

A. Not all the time, but sometimes. More infrequently than often.

Q. When she wrote them in your

9704385509986

presence, how did that come about?
A. She basically knew or we knew it was the end of the month, and she -- she would pull out her checkbook and write the check.
Q. Whether or not you were in her presence, did you always pick up the check in person?
A. No, not all the time. It would be left, you know, for me, or delivered to my office or left at my house.
It was a pattern that had just gone on since -- pattern of writing checks in this mother/son relationship, it goes back to, again, 1982 and had continued.
Q. How was the timing determined for her when she would write the checks?
A. Generally, I think it was one or two checks per month in most cases totaling an average of $40,000 a year, $37,000 a year over this six year span.
Q. What reason for say writing out checks a couple times a month as opposed to once a month or once a year?
A. I think in our family as with many families and many people, the nature of

9704385509987

holding back monies. And it has been in case she needed it for her own benefit, but we would peel off money that was available to be given as part of this divesting process.

Q. Were the checks based on your needs at the time?

A. It was in those certain instances I mentioned there were needs described. But mostly, you know, it was that she had to divest. And we knew we had this serious tax problem with the estate as large as it was.

Q. Did the amount of checks usually reflect your needs?

A. In some cases but not all cases.

Q. What about in those some cases where they did, can you explain the circumstances?

A. I think I did describe those singular cases before; the insurance premium, taxes, where you've got a big, you know, $2,000 bite out of your own personal funds, the overdue rent situation caused, you know, a crunch there that had to be helped there.

Q. When you suggested that you had

9704385099 8

expenses, would she write checks?

A. I saw where there was one check that might have had a notation on it to the phone company. And discussing that with her and recalling that, I think it was just some kind of crunch situation. I don't recall all the details. But I think you will see the exception to the rule.

MR. SMITH: Page four.

Q. In Exhibit 2, is that what you're referring to?

MR. SMITH: Exhibit 2 page four is the AT&T phone that he is referring to.

THE WITNESS: I might add, too, that the -- you see the address on my tax return is 47 North Tenth Street, which is her house. It's also on my driver's license, which is one block from my office, which is kind of sort of central location. And I have maintained that address since I was pulled from the work from the congressman in Utah because of my father's illness.

And that drew me into my mother's situation and that particular

9704385509839

address. So some mail comes into her house, and she might have opened that phone bill and saw that and prepared the check.

I don't recall all the details. That's the kind of things that could have led up to a check meeting the exact expense. That's an exception.

Q. Whose phone bill?

A. I believe it was -- it says AT&T phone on it. I'm not sure. It could have been my phone bill.

Q. Just to be clear, what is the date and the amount of the check?

A. Check is on page four, the date is June 2nd, 1993 and the amount is $53.

Q. Do you recall any of the other circumstances behind the writing of the check or this expense itself?

A. None other than what I mentioned.

Q. Did she ever refuse to write a check when you requested or when you told her about the expenses that you needed to pay?

A. Not that I recall, no.

Q. To clarify that, did she usually

9704385090

write out this -- did she ever -- how often did she write out checks when you did ask her or suggest amounts that you needed for expenses?

A. I think that was mentioned in those special circumstances. I'm going to say two, three times a year in a small number situation.

Q. Did you ever show her a bill or some kind of evidence of the expense?

A. Yes, I did with the tax bills and insurance bills.

Q. Anything else?

A. Those come to my mind as those types of situations, something out of the ordinary.

Q. Did she ever ask to see the bills?

A. I don't recall that specifically.

Q. Mr. Kilbanks, from the checks produced, it appears that your mother first started writing the checks to you in 1990. Why -- first of all, is that correct?

A. Yes. There may have been a few

9704385091

before that, but it is minimal. I think in that period 1982 to 1990, she may have written checks. Again, we worked as a family to get us through this -- there was a cash flow, but there were tight situations until we had this major liquidation.

It took some real management in that period, and I would give her a check. And she would give me a small one back of $1,000 or two or something. But that was not very frequent.

Q. Now, I know you've discussed the relationship between you writing her checks back in the '80s and her writing you checks now, but why specifically did she start in 1990?

A. In 1990, there was the major liquidation of a sale of stock in the estate of Lester Kilbanks. And also her father Clayton D. Buss, B-U-S-S, passed away in 1989.

And it was as a result of those two major significant financial events that gifting had to start to occur.

Q. Did she discuss that with you beforehand?

9704385509992

A. Yes, yes.
Q. What did she discuss?
A. First, I have assisted my mother throughout those years in providing for her in the capacity of an executor and making decisions financially, you know, in her father's estate and also the general size of the estate and the tax situation.
Q. And what was your reaction?
A. There has always been a very cooperative arrangement in our family to provide for one another and to maximize the estates and to do the property and financial planning.
Q. Those arrangements that you discussed, did they involve the two of you getting together in 1990 to discuss how she would divest her estate?
A. In general, I recall discussions of her knowing how much tax would be due on such an estate and that, you know, money could be divested, gifted.
Q. So you knew that she was giving -- going to start giving you money in 1990?

9704385093

A. I knew that we should do something and had to do something and eventually did take action.
Q. Did you advise her in that respect?
A. Yes. In general, I was an advisor and insurance agents were advising her that way.
Q. What advice did you give her in that respect?
A. Just, you know, as a layman gave her my own -- helped her to ease the tax burden in general on estates as far as the federal estate tax.
Q. Did she suggest amounts -- let me rephrase that. Did you suggest amounts that she start giving you in 1990?
A. Not specifically. Again, we knew that the cash flow from a period of eight years, in other words before 1990, did show that there could be a peel off, if you will, of $1,000, $2,000, $3,000 a month with some larger amounts thrown in to divest the estate.
We had a feel for, as anyone would working with their family budget

9704385094

or cash flow.

Q. So if that first page -- does that first page remind you how much you did receive from her in 1990?

A.

Q. How much did your sisters receive from her that year?

A. I don't know.

Q. You don't know if they received any?

A. I don't know.

Q. Did you ever suggest that she give each of her children a year?

A. Yes.

Q. What was her reaction?

A. She was aware that that would be possible, and she had knowledge of that, yes.

Q. What did you tell her?

A. I don't know the specific year that I told her that. She may have known that in 1990. Insurance agents told her that, her accountant her that.

Q. What about 1991, did she give you any checks that year?

A. No.

9704385095

DUE TO THEIR CONTENT, PAGES 115-122 HAVE BEEN DELETED

9704385099 6

Q. Now, 1995?
A. 1995, total gift amount I believe was $55,000.
Q. Okay. Why more than 1994?
A. The size of her estate was increasing, and she was capable of divesting more. She chose to gift that amount.
Q. Any other reasons?
A. Again, that overdue rent

9704385099 7

situation came into play, do we know the year? I think there might have been problems in 1995 with the rent.

Q. So at least -- excuse me, so at least part of that increase was due to your needs based on the rent situation?

A. She sensed that and also fit in with the plan of domestic -- divesting.

Q. Any other needs of yours that influenced her that year?

A. No, not that I recall.

Q. Okay. 1996, do you know the amount you received that year total in gifts from your mother?

A. I believe it was again $55,000 roughly.

Q. Okay. Mr. Kilbanks, I think we can avoid going over every single check, but I'd still like you to tell us just what you know about a few of them. I'll be referring to Exhibits 2 and 3, which are the checks and bank statements, respectively.

I know it gets a little confusing moving back and forth to those exhibits.

9704385099 8

DUE TO THEIR CONTENT, PAGES 125-126 HAVE BEEN DELETED

9704385099

9704385100

Q. Now, please turn to Exhibit 2, page 18 and look at the top check, and what is the date and the amount of that check?

A. June 28th, 1995.

Q. The amount?

A. $10,000.

Q. What was that check for?

A. I don't recall specifically, but I think in general that may have been a gifted amount coinciding with the payment of that insurance premium in this particular year.

Q. The same insurance premium that you discussed the previous --

A. Correct.

Q. Can you look at the next check down below that and tell us the date and the

amount of that check?
A. The date is July 19th, 1995. The amount is $5,396.
Q. What was that for?
MR. SMITH: If you recall.
A. I don't recall exactly. I don't -- I don't recall at this time.
Q. Does it help your memory that it's such a specific amount, I mean as opposed to say $6,000 even?
A. It could have been a situation where some taxes were due. Again, I'm not sure any more than that. I just don't recall.
Q. You don't recall any discussions with your mother?
A. No, I don't. You know, it could be one of those situations where -- if something demanded that amount of money, like the insurance premium. But I just can't recall what it is.
Again, it's the exception to the general custom or rule here the way I see it. I just can't recall the specifics.
Q. That's fine. Do you recall the biggest check that you ever received from her?

270438501001

A. Looking through here I see --
Q. Try page 25?
A. Yes, 20.
Q. Now, that check is -- I believe, correct me if I'm wrong, but it's twice as much as the next biggest check, does that refresh your memory as to what it was for?
MR. SMITH: If you recall.
A. I don't recall specifically. There was some need at the time, but I don't recall specifically.
Q. You don't recall -- what prompted your mother to write it?
A. I know I needed money at the time, and there were demands at the time.
Q. What demands at the time?
A. Well, I was campaigning and rents were overdue, and she decided to write a larger check.
Q. Were you heavily involved in your campaign at the time?
A. Yes.
Q. Did you transfer any of these funds over to your campaign?
A. They went into my personal

9704385 1002

funds. I'm trying to think. I believe around that time that I did, yes.

Q. Do you remember what portion of those funds you transferred into your campaign?

A. You know, it's always a mix between my own monies and the gift money. I have to see what --

(R. Kilbanks Exhibit Number 4 was marked for identification.)

Q. Okay. If you could take a look at that. I suggest page nine.

MS. KLEIN: Are there nine pages?

MR. ANDERSEN: Off the record.

(Discussion held off the record.)

MR. ANDERSEN: For the record, these are various disclosure reports from the Friends of Bob Kilbanks Committee submitted to the Federal Election Commission.

Q. We were just discussing the check you received for $20,000 on February 26th, 1996. And I asked you if any of the funds were transferred over to your campaign,

9704385003

and I was hoping that would refresh your memory.

A. Yes.

Q. What portion of those funds?

A. I'd say about three-fourths, $17,000.

Q. So $17,000 out of the $20,000 you received from your mother was transferred to your campaign committee?

A. Yes.

Q. Is that correct?

A. Yes, correct.

Q. Was your mother aware that you did this?

A. I don't know for sure. It was a gift.

Q. Was she aware that you were heavily involved in your campaign at this time?

A. Yes.

Q. What discussions took place when she wrote the check or when she was planning to write the check?

A. I think I recall, you know, discussing one of those unique situations

9704385 1004

where money was needed.
Q. What situation, what discussion?
A. I don't know. It was a campaign, and it's a very intense time. And I needed money.
Q. Okay. Now, turn to page 26.
MS. KLEIN: Of Exhibit 3 -- Exhibit 2, I'm sorry.
MR. ANDERSEN: Exhibit 2 page 26.
Q. Do you see a check for $10,000 written on March 19th, 1996?
A. Yes.
Q. Did you transfer any of these funds over to your campaign?
A. In that general time period I did.
Q. How much?
A. $9,000. I wrote a check to the campaign on March 21st, '96.
Q. Okay. Now, there was another big check your mother wrote on April 3rd, 1996 in the amount of $11,000. I believe this one is in Exhibit 3, the bank statements on page nine, if you want to refer to it?

9704385 1005

A. I can't quite read the amount there, is that a bank statement on page nine in April. I think it reads $11,000, but I'm not sure, but I think it's 11.

Q. Did she write a check to you for $11,000?

A. Yes.

Q. On April 3rd?

A. Yes, well, I'm not certain of the date. It looks like April -- I see those aren't in chronological order so it could be that date.

MS. KLEIN: The problem we're having is it was highlighted before being photocopied, 03 or 08 is what it appears to be.

BY MR. ANDERSEN:

Q. Did you transfer any of those funds over to your campaign?

A. I'd have to check the records. I may have.

Q. Exhibit 4, page nine and page ten if that refreshes your memory.

A. I'm not -- I may have taken $1,000. Whether it came from that money or

9704385 1006

money that was already sitting in my account -- on this one, yeah, I wrote it out to the campaign.

Q. Do you remember if there was money sitting in your account to cover that already?

A. I don't recall.

Q. So you aren't sure if the funds that your mother gave to you went to the campaign?

A. I would say that they did at that time to my best understanding and recall.

Q. I can't help but notice a big gap between May 6th, 1996 and September 24th, 1996 where your mother did not write any checks to you.

Do you recall -- May 6th, this was last year May 6th, to September 24th. Do you recall receiving any checks from your mother in that period?

A. If they are not here --

Q. None were produced. I was just wondering if you recall.

A. I don't recall any. If they are not here, we tried to gather what we could.

9704385 1007

Q. Did they write any from that time period?
A. I don't believe so, no.
Q. Why not?
A. Because I had some, you know, real estate income also that year.
Q. She was aware of that?
A. I don't know.
Q. She may have because it was -- again, we knew the general amounts per year, and we could -- and she could decide how she wanted to gift that money.
Q. It's just that it appears she was writing gift checks to you every couple of weeks or a few a month previous to that time. And you can look at that pattern if you want. And so I was just wondering why she suddenly stopped at May and then didn't start again until September.
A. I had monies to carry me through, I believe. It was the summer months.
Q. Did you make her aware of that?
A. I may have, yes. I don't recall specifically, though.
Q. Did you ask her to stop writing

9704385 1008

the checks during that period?
A. I know there was a question if we were gifting at the time. The complaint had been filed. So it would have been wise to work from my own funds at that point.
Q. Was that one of the reasons because the complaint had been filed?
A. I'd say yes.
Q. The main reason?
A. Yes. There was suddenly uncertainty of this whole process where we had -- had been in the understanding that we were in compliance with the code.
Q. Who brought this to your mother's attention?
A. Who brought what to her attention.
Q. In terms of her making a decision not to write any checks during that time?
A. Well, that was a campaign -- campaign solicitor mentioned it to me, and I also realized that there was a controversy here suddenly where we had not thought there was one.

9704385 1009

Q. Did you ask her to stop writing the checks during that period?
A. I did, yes.
Q. And what was her reaction?
A. We wanted to comply with the code. We didn't want to get into any trouble. We thought we were complying with the code.
Q. Mr. Kilbanks, we only have documents -- copies of checks and bank statements showing gifts to September 24th, 1996 but nothing after that point. And I was hoping you could fill us in.

Did you receive any checks from your mother in October of last year?
A. I don't recall. I may have received one or two in there.
Q. Do you recall the amounts?
A. No, I don't.
Q. Roughly?
A. Roughly, I'd say 1, 2, $3,000.
Q. Did you transfer any of those funds to your campaign?
A. I don't believe I did.

MR. SMITH: What was the date that you said that you received the last

9704385-010

check for?

MR. ANDERSEN: September 24th, 1996.

MR. SMITH: I'm looking for the date that we were ordered to comply with the subpoena.

MS. KLEIN: It would have been -- the letter that notified you went out on October 30th, 1996.

MR. SMITH: We were required to comply within 15 days.

THE WITNESS: So up to our compliance response, that's all the checks that were provided up to that time. The time thereafter we never resubmitted any checks that were received.

BY MR. ANDERSEN:

Q. Why did the checks resume on September 24th of last year?

A. Did they resume -- do we have a record of that?

Q. If you look at the last page of the bank statements, I believe -- what exhibit is that?

MR. SMITH: Exhibit 3,

9704385011

page 11.

THE WITNESS: I see Carol Kilbanks.

MR. SMITH: Page 10 the last entry for Robert Kilbanks.

THE WITNESS: I'm sorry. Here it is. I couldn't see, it was highlighted 9-24.

Q. Again, why did they resume at that point?

A. It was a decision of my mother to resume the gifts.

Q. How did she -- go ahead.

A. It was, you know, a time after the initial controversy over this matter. So as had been done in prior years, she resumed the gifts.

Q. How was she informed that she may or should or could start resuming the gifts?

A. She took that pretty much on her own feeling that there was no problem and she had a right to do it.

Q. What did she tell you?

A. Told me it's her money, and she

9704385012

has the right to do with her money what she wants to do with it. If she wants to gift it to her son, then she has the right to do that. And she proceeded back on the customary gift plan, you might say.

Q. I want to make sure, what do you mean by customary?

A. The fact that every -- you know, every month or so a check was written out for 1 or $2,000 with occasional large checks thrown in there for the last four to five years.

Q. Okay. I have just two more checks I'd like to ask you about. Page 25 on Exhibit 2.

A. Number two, page 25.

Q. Can you read the date and the amount of the check aloud?

MR. SMITH: Which check?

Q. The check on the bottom.

A. March 1st, 1996, $2500 is the amount.

Q. Do you know what that check was for?

A. I recall that may have been for

9704385101 3

taxes due -- property taxes on the 911 Northampton Street property.

Q. Was that a business expense?

A. An estate expense. Actually, you know, it preserves the current status of the property owned by my sisters and I.

Q. Did you ask her to pay it?

A. She knew that this -- taxes were due, and I -- I might have mentioned -- I probably did mention it to her as being one of those few instances at times would come up and this was one of them.

Q. And is that how she had come to know?

A. In this case, yes, as I recall.

Q. Did you show her any bills, documents --

A. I don't recall, specifically.

Q. -- for the amount that the check is written in?

A. Yeah, it's a general amount here. It might have been timed with that.

Q. That particular expense, was it the same as the amount of the check that was written?

9704385 0014

A. No, it was not. To my best recollection, it was not.
Q. Do you remember what amounts of that check went to what?
A. I don't recall specifically.
Q. Your real estate business office last year, was it being used in your business?
A. Yes.
Q. Were you using it at all for your campaign?
A. In 1996?
Q. Or any time?
A. I'm trying to think of when we moved into our headquarters. Before we moved into our headquarters, and I don't recall the exact date.
Q. Roughly?
A. Early 1996.
Q. What was the address of your headquarters?
A. PO Box 707, Bethlehem, Pennsylvania and Two Bethlehem Plaza. It was the rear offices.
Q. Was that near your business office?

9704385-0015

A. No, it was in a town 13 miles away.
Q. Okay. Just one more check. Please turn to page five and look at the check in the middle of the page in the amounts of $391.13 with the date of June 26th, 1993. Did your mother write that check for you?
A. Yes, she did.
Q. What was it for?
A. I don't recall what that was for.
Q. I was hoping the fact that it was for such an odd amount might refresh your memory.
A. I don't know.
Q. What about the check on page three at the top. Again, it's in an odd amount, $2,240.15, dated January 20th, 1993. Do you know what that check was for?
A. I don't recall.
Q. Why would she put 15 cents at the end?
A. It was for some type of specific need at the time, as happens, you know, in a

2704385 0016

few rare situations, as I believe it's happened over those prior years, too.

I think you will find that's part of the custom. It might be a couple checks that matches some very even amounts. I don't recall what it is sitting here.

Q. Did you tell her the exact amount to fill out?

A. I don't recall.

Q. We've covered checks your mother wrote to you. Are there checks that she wrote directly to a vendor to pay for an item of yours, a bill that you had, a service?

A. In a few instances she may have as the mail was received at her address there, and it might have been part of custom each year for her to do that, and she chose some of these on her own.

Q. What caused her to do that rather than writing a check out to you directly?

A. I think it -- a caretaking spirit and also part of the liberal divesting of the estate.

9704385-0017

Q. Can you give us an example?

MR. SMITH: If you know of any.

A. I mentioned what appeared to be perhaps a phone bill.

Q. I'm talking about checks that she wrote directly not to you but to --

A. If any, I have no -- I have no recollection of specifically telling her to do such a thing. Sometimes she would do this on her own.

Q. Between 1990 and the present, aside from these checks, the checks that your mother wrote to you, has she given you any other funds or items of value, monetary or non-monetary?

A. Not that I recall, no.

Q. Birthday presents, holiday gifts?

A. We get a nice Christmas.

Q. Let's say any items over $1,000?

A. Not that I recall, no.

Q. Not in the last six years?

A. No.

MR. ANDERSEN: Ms. Klein,

2704385 10 18

do you have you any questions.

MS. KLEIN: I do if you permit.

* * *

EXAMINATION

BY MS. KLEIN:

Q. There are two areas, basically one question. And I'm going to ask you to think back to earlier today, almost towards the beginning of your testimony in which you acknowledged that it can be a sacrifice to your business to be -- to run for office depending how the deals come through. If you want to use your terminology.

My question is in 1996 how did your deals come through for you in your real estate business?

A. Just in the form of, you know, commissions and management fees.

Q. Was it a good year?

A. Reasonably good year, yes. In 19 -- I probably never -- with all I was managing and receiving executor's commissions and the monies as a beneficiary of the estate, maybe I've averaged $25,000, $20,000 from real

9704385019

estate overall those years because I've been involved with these other functions.

Q. So there was no dramatic fluctuation in your real estate business in 1996?

A. No.

Q. Okay. The second area that I wanted to ask you about was with regard to your sisters. Did you ever -- do you ever discuss financial matters with them?

A. Yes, I do.

Q. Did you discuss matters pertaining to your father's estate for which you were executor?

A. Yes, I did.

Q. Did you ever ask them whether they were being gifted by your mother?

A. Not specifically, no.

Q. What about generally?

A. I didn't ask the question like that.

Q. Are you aware --

A. I knew that they could get money from my mother if they wanted to, sure.

Q. Are you aware whether your

2104385 1020

mother was gifting to them as well?
A. No.
Q. Do you know that she wasn't?
A. I don't know that she wasn't.
Q. You don't know whether she was?
A. Or was.
Q. Did you ever make them aware that you were being gifted?
A. Yes.
Q. How did you do that?
A. Well, they knew that I was receiving checks from my mother.
Q. How did they know that?
A. She told them that, and I told them that. They read it in the paper, too. They knew before that, also.
Q. At no time did they disclose whether or not they were being gifted?
A. Not specifically to me, no.
Q. Specifically to anyone else?
A. I don't know.
Q. Generally to you?
A. I think there may have been an occasion where they may have mentioned receiving something, but I don't remember

9704385 0021

specifically.
Q. And conversely, there was never any discussion about your receiving and their not receiving?
A. I don't recall any discussions of that nature.
Q. Did you ever talk to your mother about gifting them?
A. Yes.
Q. What were those discussions like?
A. She was told she could gift, you know, up to $10,000 tax free to her children, and she's known that clearly since 1990 or before.
Q. And you've testified that you've been working with her on this divestment plan. Did you ever ask her whether she had done so?
A. Whether she had?
Q. Ever given a $10,000 gift to either of your sisters?
A. I never asked specifically, no. It was her business.
Q. Would it surprise you if she hadn't made such similar gifts to your

9704385 0022

sisters?
A. No.
Q. And why not?
A. Because of my significant involvement with my mother and these investments and then my sisters having a good to excellent financial situation over a longer course of time and my living in Easton with her, nearer to her.

MS. KLEIN: Okay. Thank you.

* * *

EXAMINATION

BY MR. SMITH:

Q. After your 1994 primary loss, did the parental gifting continue?
A. Yes, it did.
Q. Do you have an opinion, a personal opinion, with regards to whether or not you or your campaign accepted excessive contributions?
A. Could you rephrase that, repeat that?
Q. Do you think that you or your committee is in violation of the FEC code?

9704385 1023

A. No.
Q. Okay. Could you give me the basis for your conclusion?
A. Yes. I had reviewed the FEC code and the portion of it that allows gifts to be used includes personal funds, gifts if they had been customarily received.

So I read that portion of the code early on myself, and I also had talked with my campaign manager and campaign solicitor. And I know that they had contacted the Federal Election Commission and that the Federal Election Commission gave responses to this matter in the form of a general okay that since gifts had been given customarily prior to the candidacy prior to 1996, that it was okay.

And the Federal Election Commission had faxed advisory opinions to the campaign headquarters at that time, same time we were inquiring as to whether we could do this.

And I handled these faxes myself and just looked at them cursorily. I'm not a lawyer, but I just read through in

9704385-1024

general. And then I read these press statements in both newspapers that the spokesman at the Federal Election Commission had told our campaign that if I had received gifts customarily prior to the candidacy, then we were in the clear.

That's how I always felt we were in compliance with the code.

Q. Did you seek the advice of counsel with regards to these customary gifts?

A. Yes, I did.

Q. And based upon your conversation with the advice of counsel, what opinion do you have of the legality of those contributions?

A. That these contributions are acceptable, legal, allowable, and that we, and I, are in compliance with the Federal Election code.

Q. And then as I understand your testimony, there was a delay or period when the checks stopped coming for several months. And as I understand your testimony, that was because there became some question with regards to your interpretation of the code?

9704385 0025

A. Yes.
Q. So that was in good faith that you stopped accepting gifts?
A. Yes.
MR. SMITH: I have nothing further.
MS. KLEIN: I have one follow-up, if you will.
* * *
RE-EXAMINATION
BY MS. KLEIN:
Q. Are you familiar with section 437 F of the code governing advisory opinions?
A. I'm not, no.
MS. KLEIN: Okay. Thank you.
* * *
RE-EXAMINATION
BY MR. ANDERSEN:
Q. When did you first seek advice pertaining to the FEC code or regulations?
A. As I recall, it was around the time prior to I think March '96, before large amounts of my personal funds were committed to the campaign.

97043851026

Q. In 1995, when you set up your campaign committee, did you think about the giving of gifts and the legality of it at that point?

A. Not at that point, no.

Q. When did you first become aware that it might be an issue for you in the campaign?

A. When it came time to look more closely at the definition of personal funds. And then when I had to, you know, assess where my personal funds came from.

And that would require a closer look at the code because I had been receiving these gifts customarily for many years, $15,000, $30,000, $30,000. And then suddenly I realized I can give this money -- it's my money, it's my personal fund to the campaign.

So it was right in that period of time that we called the Federal Election Commission before proceeding so that we could -- I could make these contributions.

Q. How long before you sought the advice of counsel did you realize it might be

9704385027

an issue?

A. I didn't think it would be an issue before that, no.

Q. What first brought it to your attention?

A. Brought the issue to my attention?

Q. Yes.

A. That I was going to give this money from my personal funds to the campaign, but that my personal funds oftentimes were connected with gifts from my mother. So we better look into it very closely, which we did and proceeded to do everything in line and compliance with the code.

Q. Mr. Kilbanks, before we end this deposition, is there any additional information you would like to add to your previous answers?

A. Yes. I just wanted to state that the gifts had been received customarily in that period from 1990 to 1995 in these large amounts.

And that because that type of track record had been established, that I

9704385 1028

felt everything was okay and that our contact with the Federal Election Commission actually bore that out, that initial okay.

And, you know, I'm disappointed that I have to be here today answering a complaint from a political opponent who did this, I believe, out of his own expediency at the end of the primary in April of 1996. That's it.

MR. ANDERSEN: Documents to be submitted to us, W-2 tax statements that you have received for tax year 1996, we discussed that. The petition with the names for your candidacy. You had 1,000 sign with dates and names. Any interest statements, 1099s that you received for tax year 1996.

And I don't believe we went over this before, but is there any documentation you can provide showing us the number of houses or properties that you sold last year? I have no idea what that might be. Is there any documentation you have of any proof of that.

MR. SMITH: Tax return should reflect the commissions. Would that be

9704385029

sufficient?

MR. ANDERSEN: Okay.

MS. KLEIN: This is the infamous wrap-up that we have to give. We don't mean this to be insulting. But under the federal rules, we provide a witness fee check to anyone who appears for -- that is subpoenaed for a deposition.

I believe the amount of the witness fee check is $40 and in addition, mileage from your home to the place of the deposition.

It's our understanding that it's about ten miles each way, is that a correct estimation?

MR. KILBANKS: I would say 20 miles or so, 20 miles.

MS. KLEIN: Each way?

MR. KILBANKS: Yes.

MS. KLEIN: Then we'll make sure that the check gets issued.

(Deposition concluded.)

9704385030

2-12, 1997

I hereby certify that the evidence and proceedings are contained fully and accurately in the notes taken by me of the testimony of the within witness who was duly sworn by me, and that this is a correct transcript of the same.

Melissa L. Oswald
Registered Professional Reporter

The foregoing certification does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.

2704385 0031

March 26, 1996

I hereby certify that I have read the foregoing transcript of my testimony taken at the within deposition and find it to be true and correct.

Robert Kilbanks

ROBERT KILBANKS

9704385 0032

27043851033

BEFORE THE FEDERAL ELECTION COMMISSION

Matter Under Review
No. 4353

ORIGINAL

DEPOSITION OF JACQUELINE M. KILBANKS

Taken in the offices of Slifer, Voice & Shade, 1228 Walnut Street, Allentown, Pennsylvania, on Thursday, January 16, 1997 commencing at 9:30 a.m., before Melissa L. Oswald, Registered Professional Reporter.

APPEARANCES:

LAW OFFICES OF
JEFFREY S. SMITH & ASSOCIATES
By: JEFFREY S. SMITH, ESQ.
2704 William Penn Highway
Easton, PA 18042
-- For The Kilbanks'

FEDERAL ELECTION COMMISSION
By: THOMAS J. ANDERSEN, ESQ.
-and-
LISA E. KLEIN, ESQ.
999 East N.W.
Washington, DC 20463
-- For The Federal Election Commission

* * *

SLIFER, VOICE & SHADE
1228 Walnut Street
Allentown, PA 18102
(610) 434-8588

724 Lehigh Street
Easton, PA 18042
(610) 250-0383

27043851034

INDEX TO WITNESSES

Witness	Page
JACQUELINE M. KILBANKS	
By Mr. Andersen	3
By Ms. Klein	127

INDEX TO EXHIBITS

Exhibit	Description	Page
1	Newspaper articles	22
2	Receipts and disbuursements	31
3	Gifted checks	71
4	Gift tax return	83
5	Merrill Lynch statements	96

* * *

JACQUELINE M. KILBANKS,

having been duly sworn, was examined and testified as follows:

* * *

EXAMINATION

BY MR. ANDERSEN:

Q. Good morning.

A. Morning.

Q. My name is Thomas J. Andersen. I'm an attorney with the office of general counsel of the Federal Election Commission. With me is Lisa E. Klein, assistant general counsel of the office of general counsel of the commission.

This is an investigative deposition being taken pursuant to a Federal Election Commission subpoena under 2 U.S.C. 437 G. And not under the federal rules of evidence.

This investigation has been denoted matter under review 4353 pursuant to 2 U.S.C. 437 G

All commission investigations are confidential. So you are

27043850035

not to share or speak about this with anyone.

Can you please state and spell your name for the record?

A. Yes. My name is Jacqueline M. Kilbanks, J-A-C-Q-U-E-L-I-N-E, middle initial M, Kilbanks, K-I-L-B-A-N-K-S.

Q. Are you represented by counsel today?

A. Yes.

Q. What is his name?

A. Jeffrey Smith.

Q. Mrs. Kilbanks, have you ever had your deposition taken before?

A. Never.

Q. Okay. This is an administrative and investigative deposition as opposed to a deposition being taken for litigation.

The commission has made no final determinations about anything. There is no litigation underway and no litigation contemplated.

At this stage we're just here to find out facts of what happened and generally these types of investigative depositions are relatively informal.

2704385 0336

That being said, we appreciate all your help in helping us to understand the facts of this case.

There are certain ground rules and procedures and let me tell you about them. The court reporter will be recording everything we say here today. So be sure to answer verbally rather than with nonverbal gestures such as nods.

For the sake of the record, please let me finish my questions before you start answering them.

If you don't hear or understand a question, I'll be glad to repeat it or I'll try to rephrase it for you. If during the course of the deposition you want to add to or modify one of your answers, just let me know and I'll give you the opportunity to do so.

A. All right.

Q. If you need to take a break and confer with counsel, that's fine. Just let me know, I'll tell the court reporter to take a break. Just let me ask you to answer my -- any pending question before you take a break.

270438510037

Finally, please remember that you are under oath. So treat your testimony here today as if you were in a court of law. Do you understand those instructions?

A. Yes.

Q. Do you have any questions about these procedures?

A. No.

Q. Mrs. Kilbanks, do you have any medical conditions or are you taking any medication which may affect your ability to fully understand and answer my questions?

A. No.

Q. Any serious conditions or illnesses?

A. No.

Q. When did you first learn that we were going to take your deposition?

A. When did I -- several months ago.

Q. Okay. Other than counsel, have you discussed today's deposition with anyone?

A. Oh, no.

Q. Did you meet with your counsel in preparation for this deposition?

2704385103 8

A. Yes.
Q. When?
A. Yesterday.
Q. For how long?
A. Three hours.
Q. Did you review any documents with him?
A. Yes.
Q. Which ones?
A. Let's see, there was one specific one from the FEC, several pages. I didn't go over them thoroughly.
Q. You don't remember what it was?
A. No.
Q. Was anyone else there?
A. My son.
Q. Have you reviewed any other documents in preparation for this deposition?
A. Yes, there was a letter from Jeffrey Smith.
Q. Did you bring any documents with you here today?
A. Yes.
Q. What did you bring?
A. Pardon?

2704385039

Q. What did you bring?
A. The letter from Jeffrey Smith, which is in my car which is home. Fine.
Q. That's fine. Did you do anything else to prepare for this deposition?
A. No.
Q. Mrs. Kilbanks, I'm going to begin by asking some background questions. What is your home address?
A. 47 North Tenth Street, that's the number ten. That's in Easton, Pennsylvania, 18042.
Q. And how long have you lived there?
A. 23 years.
Q. And before that?
A. I lived in Easton.
Q. Okay. What is your birth date?
A.
Q. Do you drive?
A. Yes.
Q. Valid Pennsylvania driver's license?
A. Yes.
Q. And did you say you drove here

2704385104 0

today?

A. No, I came with my son today.

Q. Okay. Are you married?

A. No.

Q. Have you ever?

A. I'm a widow.

Q. Who were you married to?

A. I was married to Lester H. Kilbanks.

Q. For how long?

A. 33 years.

Q. Until when?

A. Until 1985 when he passed away.

Q. Thank you. Any other marriages?

A. No.

Q. Do you have any children?

A. Yes.

Q. How many?

A. Three.

Q. What are their names?

A. Robert, Carol Anne and Susan.

Q. Do the daughters still use the same last name?

A. Yes.

Q. What are their ages?

2704385 0041

A. 43, 44 and 41.
Q. Which age to which?
A. My son is the oldest.
Q. Okay. Two daughters, which --
A. The first oldest daughter is 43.
Q. And who's that?
A. That is Carol Anne.
Q. Okay. And where do they live?
A. One lives in New York City and the other one lives in California.
Q. Which ones lives where?
A. Carol Anne is in California.
Q. Thousand Oaks?
A. Thousand Oaks.
Q. Does Robert live with you?
A. No.
Q. And I'm going to be referring to his name quite often. Do you prefer me to refer to him has Robert, Bob?
A. Doesn't matter.
Q. How long has he lived with you?
A. Well, he hasn't.
Q. I'm sorry.
A. That's all right. He has his own home.

2704385 0042

Q. Okay. Where is that?
A. 4695 South Delaware Drive, Bangor, Pennsylvania.
Q. Had he ever lived with you as an adult?
A. Yes.
Q. Can you --
A. When my husband was quite ill I needed help, and he moved in with me to help me with my husband.
Q. Can you give me the approximate dates?
A. '83, '84. 1983, 1984.
Q. So he just lived with you approximately two years?
A. Yes.
Q. And he moved back out after your husband passed away?
A. Yes.
Q. Did he move to that address in Pennsylvania?
A. Yes.
Q. And he's lived there continuously ever since?
A. Yes.

270438510043

Q. Does anyone else live in the house with you?
A. No.
Q. Do you own the house?
A. Yes.
Q. Is there a mortgage on it?
A. Yes.
Q. What amount, approximately?
A.
Q. What are your monthly payments?
A. something like that.
Q. How often do you talk to Bob?
A. Every day.
Q. How often every day?
A. Generally once.
Q. And how does that come about? Does he phone you, you phone him?
A. Both ways.
Q. Okay. How often do you actually see each other in person?
A. Several times a week, three times a week.
Q. And does he visit you at your home?
A. Yes. He comes for lunch,

2704385104

occasionally for dinner.
Q. Okay. So you see him a few times a week?
A. Um-hum.
Q. And you talk with him on the phone every day?
A. Every other day.
Q. Every other day. What does Robert do for a living?
A. Real estate agent.
Q. Anything else?
A. No.
Q. How would you describe his financial situation?
A. How would I describe his -- average, able to, you know, make a living, so to speak.
Q. Is he successful?
A. Yes, I would consider so.
Q. Money a concern for him?
A. No.
Q. What about Carol. She lives in California. Is she married?
A. Yes.
Q. For how long?

270438510045

A. Four years.
Q. To whom is she married?
A. Perry Kiefer.
Q. Thank you. Does she have any children?
A. Yes.
Q. All children from this marriage?
A. Yes.
Q. How many?
A. One.
Q. What is that child's name?
A. It's a girl.
Q. Okay. What is her age?
A. Four months.
Q. Does Carol work?
A. Yes.
Q. What does she do?
A. She's a background artist.
Q. What about her husband?
A. He's the same thing.
Q. How would you describe their financial situation?
A. Good.
Q. How often do you talk to Carol?
A. Once a week.

2704385 0046

Q. On the phone?
A. Um-hum.
Q. Do you call her?
A. Sometimes she will call me and I sometimes call her.
Q. How often do you talk on the phone? When you do talk on the phone --
A. Ten minutes.
Q. Ten minutes. Okay. When was the last time you talked with her?
A. Last week.
Q. When was the last time you saw her?
A. Christmas.
Q. How would you describe your relationship with her?
A. Excellent.
Q. What about your grandchild, how would you describe your relationship with her?
A. Four months old.
Q. What about Susan, where does she live?
A. She lives in New York City.
Q. Is she married?
A. No.

9704385 1047

Q. Does she have any children?
A. No.
Q. Does she work?
A. Yes.
Q. What does she do?
A. She's a model.
Q. How would you describe her financial situation?
A. Excellent.
Q. Did she ever live with you as an adult?
A. After college.
Q. For how long?
A. Let's see, maybe six months.
Q. How long ago was that?
A. Maybe 1975.
Q. And how often do you talk to Susan?
A. She's home every weekend from New York City.
Q. Did you talk with her last weekend?
A. Oh, yes.
Q. On the phone, you see her in person?

270438510048

A. On the phone, during the weekend, of course.
Q. How often do you actually see her?
A. Oh, yes. She comes to my home.
Q. How would you describe your relationship with her?
A. Very good.
Q. How would you describe the relationship between Bob and Carol?
A. Fine.
Q. How about between Bob and Susan.
A. Fine.
Q. And between Carol and Susan?
A. Fine.
Q. What is your educational background?
A. Robert is a graduate of Lafayette College, Carol is a graduate --
Q. I'm sorry, your educational background?
A. High school and Churchman Business College.
Q. How long ago was that?
A. Well, I graduated 1944 and

2704385 10049

Churchman's 1946.

Q. Can you tell me about the business college? What was your major?

A. Secretarial, bookkeeping.

Q. Any other kind of education?

A. No.

Q. Okay. Mrs. Kilbanks, I would now appreciate it if you could describe your employment history, if any. You can start with the most recent time, however you want to approach it?

A. When I graduated from Churchman's, my father had a real estate office, and I was his secretary from the time -- from that time until he passed away, I was in his office.

Q. What year was that when he passed away?

A. '47 until now. Let's see, I had Robert in '51. So then I didn't go into his office, but I still continued to help my father now and then in his office and help him with his insurance business.

Q. Up until when?

A. Then my father died in '90.

9704385 0050

Q. Anything after that?
A. No.
Q. Are you involved in any clubs or associations?
A. Oh, yes, um-hum.
Q. Can you list them?
A. Okay. Temple Covenant of Peace. I'm a member there, and I'm a member of their sisterhood and let's see. I don't know if AARP counts locally.
Q. Okay. Mrs. Kilbanks, I'd like you to talk about your son's political aspirations now. Let's start from the beginning, let's go back before the last two congressional elections. In fact, as far back as you can remember, what was the first elective office that Bob ran for?
A. Running for congress.
Q. In 1994?
A. I wasn't aware of it until the very last minute in 1994.
Q. When did you become aware of it of it?
A. Practically maybe two days before.

9704385 0051

Q. Two days before what?
A. Before he was going to run.
Q. Can you give me an approximate date?
A. I can't remember the months. I can't remember the month, really.
Q. Let's start with the year?
A. That was 1994.
Q. So you didn't know he was going to run in 1993?
A. No.
Q. Did he -- when did he discuss running for office with you?
A. Well, let's -- I don't really remember because sons don't always tell their mothers everything.
Q. When was the first --
A. I would probably -- maybe 1995.
Q. I'm talking about the '94 election now.
A. 1994. Let's see, no, I do not know. I didn't know in 1994. See, now I'm getting --
Q. I'm talking about -- he ran in the 1994 primary, is that right?

2704385 1052

A. No, no 1995 primary.
Q. You aren't aware that he ran for congress in 1994?
A. No, no. 1994 -- 19 -- yes. Yes, I was aware of that in 1994.
Q. Do you remember when the primary election was held?
A. May.
Q. Okay. Now, how long before May did you find out that he was running for office?
A. Practically the last minute, two weeks.
Q. So was it in April?
A. Yes.
Q. April of 1994?
A. Yes.
Q. Okay. Now, do you remember -- I'm not talking about his announcing or his making his decision or even his planning or preparation or -- what I'm trying to get at is when did he -- when did he first contemplate running? When were you aware that he first contemplated running?
A. I really don't remember that. I

2704385 0053

really don't remember.
Q. Did he express any desire to run?
A. No.
Q. How did it come about that you became aware of it?
A. He just told me that's what he was going to do.
Q. Do you remember what he told you?
A. I'm going to run for -- I'm going to give a try running for congress.
Q. And that was in April of 1994?
A. I think so, um-hum.
Q. When he said he was going to run for congress, at that point had he made a decision to run?
A. I wouldn't know that really.
Q. He never --
A. It's just talk.
Q. He never talked about it at all before April of 1994?
A. No, no.
(J. Kilbanks Exhibit Number 1 was marked for identification.)

2704385054

Q. For the record, these are copies of news articles that appeared in two newspapers, the Allentown Morning Call and the Easton Express Times.

Mrs. Kilbanks, can you please turn to the article on page six. For the record, that article is entitled Kilbanks Defends Cash Gift. The date is April 10th, 1996.

Do you see the paragraphs that are underlined in the third column from the left?

A. Okay.

Q. Can you please read aloud the first underlined paragraph which is one sentence long?

A. His mother said that when she first gave him such a gift in 1993, she did so believing he might use it for his campaign.

Q. Is that an accurate statement?

A. No, that reporter misinterpreted everything that I said. In fact, as I'm talking to him, he's talking over me, not even listening. That's all I have to say about that. That's misinterpretation there.

2704385 0055

Q. What did he ask you or tell you?
A. Well, that's kind of hard to remember because he just really coerced me. I would say he just rambled on. In fact, I wasn't even going to talk to him, and he was insisting that I had given my son a large amount of money. And I said no, no, I had not.

I said -- I did say something when you give money as a gift, a person can take it and throw it in the garbage and throw it away and do whatever they want with it.

And anything else that man certainly misinterpreted because he only wanted to hear what he wanted to hear.

Q. Who was he?
A. John Martin.
Q. Do you remember when that conversation took place?
A. No, I do not remember that.
Q. Do you remember how it came about?
A. No, it came out of the blue.
Q. I mean did he call you?

270438510056

A. Oh, yes, excuse me. Certainly.
Q. And when he called you up, what did he first say?
A. Oh, my goodness, I wouldn't -- he, you know, told me who he was and started in with, you know, with the gifting of the money -- of the amount of money. And from then on, I wouldn't remember really the rest of the conversation. But I know he did misinterpret what I said.
Q. When did you find out?
A. Well, when I saw the article in the paper.
Q. Did you read it the same day that it came out?
A. Oh, yes,
Q. What was your reaction?
A. Pretty mad.
Q. Can you describe --
A. To sue, frankly.
Q. Did you do anything about it?
A. No, no.
Q. Did you -- you didn't call him up to complain?
A. No, I didn't. I didn't think

2704385 0057

that was a proper thing to do at that time.
Q. Why not?
A. Well, because of the campaign. I wouldn't do anything without any legal advice.
Q. Did you talk to Bob about it?
A. Oh, yes.
Q. The same day?
A. Yes.
Q. Did you call him up?
A. Yes.
Q. And what did you tell him?
A. I told him John Martin called from the Morning Call and was very adamant and tried to get me to say what wasn't true and talked over my conversation to him and that's all.
Q. So you became aware that your son was running for congress in the 1994 election in April of 1994?
A. To my knowledge, that would probably be about the time.
Q. And do you have any awareness of any preparations, discussions, that he had about that election?

27043851058

A. No.
Q. Do you remember him discussing his conversations with others about it?
A. No.
Q. Is he the one that told you?
A. Yes.
Q. And I'm sorry to go back over this, what did he tell you?
A. That he was thinking of running for congress.
Q. And at any time before that did he bring up the subject?
A. No.
Q. Not even that he was -- had a desire to run?
A. No.
Q. Do you know of any preparation he did before that?
A. No.
Q. Any political aspirations whatsoever that you knew about before that time?
A. No.
Q. When you found out that he was running for congress in April of 1994, what

2704385059

was your reaction?
A. Well, I was pleased if that's what he wants to do.
Q. Did you say anything to him about it?
A. Go for it.
Q. So you encouraged him?
A. Oh, certainly.
Q. Do you remember his financial situation at the time?
A. It was all right.
Q. Did he tell you?
A. No.
Q. How did you become aware?
A. Well, he'll say when he's sold a property or I will ask him from time to time what's going on in the real estate business.
Q. In April of 1994 when you found out that he was running for congress, did he ask for your support?
A. My support, yes. Not monetarily, but just my support. So I said if that's what you want to do, go ahead.
Q. Did he ask for any financial support?

2704385 0060

A. No.
Q. No financial support for campaign expenses?
A. No.
Q. No financial support for living expenses?
A. No.
Q. When you found out that he was running for congress, did this awareness cause you to increase your amount of gift giving to him at that time?
A. No.
Q. Ms. Kilbanks, after Bob lost the 1994 primary election, did you think that he might try to run again in 1996?
A. I had no idea.
Q. Did he ever discuss the possibility with you?
A. No.
Q. When did you find out about his being a candidate in 1996?
A. Last minute, practically.
Q. Let's try to pin down a time frame here.
A. A few months maybe before.

2704385 1061

Q. Do you remember when the 1996 primary was?
A. May.
Q. And you found -- did you find out a few months before that time?
A. Yes.
Q. So January or February?
A. Yes. All right. January.
Q. January. That was the first you had found out that he was running, January 1996?
A. Um-hum.
Q. Did you know at all in 1995?
A. No.
Q. Now, again not talking about his actual decision to run but if he talked about it, if he had desires that he expressed to you, if he discussed it with you at all the possibility?
A. No.
Q. Did you make a contribution to his campaign in 1995?
A. Yes.
Q. What were the circumstances behind that?

2704385 10062

A. Well, it was an allowable amount is what I gave him.
Q. For what campaign?
A. Well, for the -- it would be the primary.
Q. So you made a contribution in 1995, is that correct?
A. I'm not sure.
MR. ANDERSEN: Let the record reflect that I'm showing this to counsel. For the record, this is a report of receipts and disbursements from the Friends of Bob Kilbanks Committee. For the record, this is the January 1996 year end report.
(J. Kilbanks Exhibit Number 2 was marked for identification.)
BY MR. ANDERSEN:
Q. Mrs. Kilbanks, do you see that $70 contribution on the third page in your name?
A. Um-hum.
Q. How did you make a contribution in 1995 when you didn't know he was running for the 1996 election?
A. No doubt I have my dates -- my

2704385063

years mixed up.
Q. Now that you are looking at, that does that refresh your memory?
A. How so?
Q. Well --
A. In what respect do you mean that?
Q. As far as your awareness of his running for election in 1996.
A. Well, I still knew it.
Q. That he was running for congress in 1996?
A. Yes.
Q. Okay. So what date did you know that?
A. Oh, boy, I can't remember all those specific times.
Q. Was it before June of 1995?
MR. SMITH: You can look at this to refresh your memory.
A. Yes, I guess it would have been.
Q. A rough approximation of how many months before that?
A. Two.
Q. So would you say that you were

2704385 10064

aware that he was running for congress in the 1996 election in April of 1995.

A. All right. Yes.

Q. How did you become aware of that?

A. He told me.

Q. What did he tell you?

A. Oh, I wouldn't remember the conversation.

Q. And you didn't have any discussions prior to that date with him?

A. No.

Q. Did he tell you that he had made a decision to run in June -- excuse me, in April of 1995?

A. I don't remember if he did or not.

Q. Did he -- what prompted you to write that contribution check? I want to make sure we have this clear. You did write a contribution check in June for $70?

A. Yes, it was for a fundraising of some kind.

Q. What prompted you to write it?

A. Well, because I was going to

2704385 1065

attend, and I probably took some other people with me.

Q. Did Bob ask you to write it?

A. No.

Q. How did you know how to write it to the Friends of Bob Kilbanks Committee?

A. Well, I just knew that's what you would do, the way you would write it.

Q. How did you know that such a committee existed?

A. Well, I was aware of it.

Q. How did you become aware?

A. I guess through Bob.

Q. Do you remember when that was?

A. No.

Q. Was it before or after April of 1995?

A. I don't recall. I don't remember.

Q. But you don't remember if he asked you to write that check?

A. No, I don't.

Q. You don't remember -- do you remember any other circumstances surrounding the check?

2704385 0066

A. No.
Q. The fact that it was $70 rather than $100 or another amount, does that refresh your memory at all?
A. No, it doesn't.
Q. You don't remember why you would write a $70 check?
A. It would be for a fund raising event.
Q. I believe you previously mentioned perhaps that it was for some sort of dinner. Does that refresh your memory?
MR. SMITH: If you recall.
A. Well, I don't, really. There was a lot going on.
Q. Okay. Can you look at the box right below that. Do you remember writing a check in that amount?
A. No, I don't remember, but evidently I did.
Q. And in what amount is that?
A. Well, $930.
Q. But you don't remember at the time how much it was?
A. No, I don't remember the

270438510067

specifics.
Q. Again, the fact that it's $930 as opposed to $500 or $1,000, that doesn't refresh your memory?
A. No.
Q. You don't know why you were writing that particular amount?
A. No, I don't.
Q. Did Bob ask you to write that check?
A. I can't say that he did.
Q. Did anyone else?
A. Not that I'm aware of.
Q. You don't remember -- do you remember why you wrote it?
A. No.
Q. You don't remember any of the circumstances surrounding your writing that check?
A. No.
Q. You weren't aware of any contribution limits at the time?
A. No.
Q. What do you know about contribution limits?

2704385 1068

A. I think $1,000 is the limit.
Q. Did you take that into consideration when you wrote that check?
A. I don't remember that.
Q. When did you -- when did you become aware that that was the limit?
A. I really don't know. This is all new to me, and I just -- I don't know.
Q. Okay. So the earliest that you were aware that he was running for congress in 1996 was actually in April of 1995, is that correct?
A. Yes.
Q. So it really wasn't at the very last minute that you found out?
A. Actually, as I remember it was last minute.

MR. SMITH: If you can clarify that you're talking about the '96 campaign. This is his second run for congress.

THE WITNESS: Oh, his second one.

MS. KLEIN: Can we go off the record a moment?

2704385 0062

(Discussion held off the record.)

MR. ANDERSEN: Back on the record.

BY MR. ANDERSEN:

Q. Mrs. Kilbanks, in terms of the second campaign, the 1996 congressional election, when were you first aware that your son was running for congress?

A. I really can't remember the exact time.

Q. Okay. You previously testified that it was April -- well, we pinned it down to April of 1995. Would you agree? Is that a correct statement?

A. Yes.

Q. But you can't go back -- any earlier than that you can't remember?

A. No, no.

Q. And, again, just to be clear, not just talking about him making the decision to run but thinking about it, contemplating, you know, expressing the desire, you don't remember anything before April of 1995, is that correct?

A. No, no.

2704385070

Q. When you did find out in April of 1995, did you offer your support?
A. Yes.
Q. In what way?
A. Well, not regarding any money along those lines. But if that's what he would like to try to do, I would certainly do it.
Q. You did not offer any financial support?
A. No.
Q. Did you offer any support for his living expenses?
A. No.
Q. Did he ever ask you for your financial support?
A. No.
Q. Support for his living expenses?
A. No.
Q. At that time that you first found out that was running in the 1996 election, did he discuss his financial situation with you?
A. No.
Q. Did you ask him?

2704385 1071

A. No.
Q. Were you aware at that time of his financial situation in terms of assets and income?
A. Was I aware, no.
Q. Again, just to be clear, we're talking about approximately April of 1995 when he first told you that he was going to run for election. Was he working at the time?
A. Oh, yes.
Q. Doing what?
A. Real estate, selling real estate.
Q. Anything else?
A. No.
Q. Do you remember how much he was making?
A. No, I don't.
Q. Did you discuss it at all with him?
A. No. May I say I don't -- I don't really discuss much of these things with my son.
Q. Were you aware if he was planning to continue working during the

2704385 1072

campaign?
A. I don't know. But I would assume so.
Q. Do you remember if he did?
A. Yes, he did some.
Q. Did he do less?
A. That I wouldn't know.
Q. You didn't discuss it with him?
A. No.
Q. Were you aware if he made any plans as to how to handle his finances during the campaign?
A. No.
Q. Were there any arrangements or agreements to be made with him concerning his financial needs prior to the running for congress?
A. No.
Q. Did you agree to pay for his living expenses while running?
A. Pardon?
Q. While running for congress, did you agree to pay for his living expenses?
A. No.
Q. So he never told you that he

2704385 1073

needed money?
A. No.
Q. He never complained about being tight on funds --
A. No.
Q. -- anytime during the election?
A. No.
Q. Anytime between April of 1995 and the election in November of 1996?
A. Maybe a discussion as getting contributors, you know. It's not an easy thing to do.
Q. What did you discuss in terms of that?
A. Just making calls.
Q. Do you remember when he first discussed that with you?
A. No.
Q. Do you remember if it was before or after the primary election in 1996 when he discussed his financial situation with the campaign?
A. I'm sure it was before.
Q. What were the nature of the discussions?

2704385 1074

A. Just having a regular conversation, you know, like I listened on television and how hard it was to raise funds, just a normal conversation regarding any contributions.
Q. What did he say?
A. Not to much, just, yes, it is or would be.
Q. Did you bring up the subject?
A. I don't know. I don't know.
Q. Did he?
A. I don't know.
Q. But there was some discussion?
A. Yes, I was probably maybe listening to television at the time and discussing how hard it is to raise funds, things like that.
Q. Was that -- and that was sometime before the primary election?
A. I don't remember.
Q. A year, '96, '95?
A. Maybe '96.
Q. Early 1996?
A. I can't pinpoint it. I can't really pinpoint that time.

2704385 0075

Q. Do you remember -- do you remember when the primary election was?
A. Yeah, May.
Q. Was it before that time?
A. Yes, I guess.
Q. So sometime early 1996?
A. All right. Yes.
Q. Anymore specific than that?
A. No, I guess I can't.
Q. Did you know if the checks you wrote to him in 1995 and '96 would be used for living expenses or campaign expenses?
A. No.
MR. SMITH: Which checks? These two that were referred to in the exhibit?
MR. ANDERSEN: Excuse me.
Q. Let's go back to the -- sometimes when I refer to checks, we get confused about that.
The ones that you were writing to him personally. So the ones that you were writing to him personally in 1995, were you aware that he would use them for -- if they would be used for campaign expenses?

2704385 1076

MR. SMITH: Do you understand what checks he's talking about?

THE WITNESS: The gifting checks?

Q. Did you write checks to him personally in 1995?

A. Yes.

Q. Were you aware that any of those checks you wrote to him would be used for living expenses?

A. No.

Q. Were you aware that any of those checks you wrote to him in 1995 would be used for campaign expenses?

A. No.

Q. He didn't tell you what he used them for?

A. No.

Q. You didn't ask?

A. No.

Q. How about did you write checks for him personally in 1996?

A. Yes.

Q. Were you aware if any of the checks you wrote to him in 1996 were used for

27043851077

campaign expenses?
A. No, I wasn't aware.
Q. Were you aware if any were used for living expenses?
A. No, not aware of that either.
Q. When Bob won the 1996 primary last April, what was your reaction to his victory?
A. I was elated.
Q. What type of celebration was there?
A. Nothing special, hugging and kissing, happy.
Q. Was that right after he won the election?
A. Yes.
Q. The day after, the night of the election?
A. The night of.
Q. What conversations did you have with him about his victory?
A. I can't think of any specific other than, you know, being happy that he won.
Q. Did he discuss with you his plans for the general election campaign?

2704385 1078

A. No.
Q. Did you ask him?
A. No.
Q. Did you discuss strategy?
A. No.
Q. Did he discuss finances?
A. No.
Q. You never asked him?
A. No.
Q. Did you discuss it with anyone else associated with the campaign?
A. No.
Q. Or anyone else, period?
A. No.
Q. You didn't make any suggestions to him concerning his --
A. No.
Q. -- running for the general election? Was he working at the time? Again, let's be clear. Let me back up a little bit.

The 1994 primary was in May, do you recall that?
A. 1994.

MR. SMITH: The first one?
A. May.

2704385 1079

MR. ANDERSEN: Right. The first election.

A. The first election in 1994.

Q. Now, the primary election last year, I believe, were you aware of what month it took place?

A. April.

Q. Okay.

A. I'll be all right.

Q. Let's narrow the time frame between April of '96, in other words, the primary election and November of 1996 when the general election took place.

A. We're in 1996?

Q. '96, right.

MR. SMITH: He's won the primary.

Q. Did you have any discussions with him at that time about the general election?

A. No.

Q. Did you ever ask about it?

A. If I did, very little.

Q. Do you remember what you asked?

A. No. How are things going.

2704385 1080

Q. What would he tell you?
A. I'm sure he must have said fine. He never really went into detail.
Q. Were you aware of his campaign in general occurring that time? We're talking about between the primary and the general.
Between April and November of 1996, were you aware of what was happening with his campaign?
A. Oh, yes.
Q. How did you become aware of that?
A. Well, I helped him at times.
Q. How did you help him?
A. Stood out on the highway and held up a sign, Kilbanks for congress.
Q. Do you remember when you did you that?
A. It was a quite a few times that I did that.
Q. How often?
A. Once a month.
Q. Was that starting right after he won the primary?
A. No, not right away.

2704385 1081

Q. Do you remember the first time you started doing that, started helping him?
A. Maybe three months after the primary, April, May, June, July.
Q. So what did you do again? How did you help him?
A. Went out on the highway and held up a sign.
Q. Did you do anything else?
A. No.
Q. Did you read articles in the paper about the campaign?
A. Yes.
Q. Do you subscribe to the Morning Call?
A. Yes.
Q. Do you read that paper every day?
A. Glance over it, not thoroughly.
Q. Did you read it during that time period?
A. Yes.
Q. So did you read all the articles that appeared about your son?
A. Yes.

270438510082

Q. Did you discuss any of those articles with him?
A. No. He was too busy.
Q. But you -- were you seeing him, talking to him every day at that point?
A. Perhaps not.
Q. How often?
A. Maybe three times a week, twice a week, three times a week.
Q. Would he visit you? How did that come to take place, on the phone?
A. Phone.
Q. Who called who?
A. Went both ways.
Q. And what did -- what were the nature of those conversations?
A. Just generally, how are you and how's the campaign going or how am I feeling, how are his sisters.
Q. And what would he tell you about the campaign?
A. How busy he is with it. It's keeping him very busy.
Q. What did he say? How busy was he?

270485 0083

A. Fairly busy and trying to do business at the same time. It's not an easy job.
Q. Did he discuss curtailing his business activities while he ran?
A. No.
Q. What do you mean by he said it was not an easy job?
A. Well, with campaigning, you know, and trying to do real estate business, juggle both of them. It's not easy.
Q. Did he tell you that?
A. Um-hum.
Q. He told you that it was not easy?
A. Um-hum.
Q. Did he go into detail about that?
A. No.
Q. Did he tell you how he was able to juggle the two?
A. No.
Q. Did he say how busy -- how many hours a week, for example, he was working the campaign?

270438510084

A. No.
Q. Do you know how much he did work during that time period?
A. No, I wouldn't know that.
Q. Do you know if he sold any houses during that time period?
A. No, I don't know that either.
Q. Does he have any other income sources? Are you aware if he had any other income sources during that time?
A. No, I'm not aware of any.
Q. Would you say he was working full or part-time on the campaign, were you aware?
A. Full or part -- juggling.
MR. SMITH: Do you understand?
THE WITNESS: Yes, juggling both. I wouldn't say it was full or part-time.
Q. He didn't say -- did he say anything -- what did he say other than that he was busy with the campaign?
A. I can't remember any specific statements of any kind.

2704385 1085

Q. For example, did he tell you the activities he was engaged in or his campaign?
A. I think he did mention things that were going on.
Q. What kinds of things?
A. I have a short memory span.
Q. So do I. I'm sorry.
A. Fund raiser coming up or something along those lines.
Q. Do you remember?
A. Out on the highway again holding up a sign.
Q. Do you remember when those discussions -- any of those discussions first took place?
A. No.
Q. Did they take place right after the primary election in April of 1996?
A. No, not right after.
Q. How long after?
A. August, September I believe.
Q. Did you ever have any discussions with him about the campaign between April and August?
A. Any discussions?

2704385 0886

Q. Yes.
A. Very little, if any.
Q. Were you still talking with him a few times a week at this time?
A. Yes.
Q. Did he mention the campaign during those discussions?
A. Not all the time.
Q. How often?
A. Maybe twice a week, once a week.
Q. What did he talk about?
A. Well, he mostly -- I have a slight asthma problem, and he knows that certain times it acts up. And he would call me and ask me how I was feeling.
Q. Did he also talk about the campaign during that time?
A. No.
Q. Were you aware if he was busy with the campaign during that time?
A. I would assume he would be.
Q. So did he say anything about reducing his real estate activities while he was campaigning?
A. No.

270438510087

Q. Did you -- did you know if he was?
A. No, I don't think -- he likes keeping the business there, keeping things going on the business line.
Q. Were you still giving him personal checks at this time, writing out personal checks to him?
A. The gifting checks, yes.
Q. Was there an expectation that you would keep up your gift giving while he campaigned for the November election?
A. Yes, I did that. I wanted to divest my estate, and I have a habit of gift giving.
Q. Based on what?
A. Well, for one thing, I like my children to have money now while I'm still alive. And also, I don't like the taxes you have to pay.
Q. So just to be clear, what discussions -- what discussions about his financial situation did you have between April and November of last year?
A. None

2704385 1088

Q. After the November election, did you discuss his financial situation?
A. No.
Q. Were you aware of it?
A. No.
Q. Were you aware if he had any debts to payoff?
A. No.
Q. He didn't bring up the subject?
A. No.
Q. Did you ask?
A. No.
Q. Did you give him any gift checks after September 1996?
A. Yes.
Q. Do you remember the dates and the amounts?
A. No, I wouldn't remember.
Q. Can you roughly say the number of checks, the frequency, the amounts?
A. No, I can't say. I can't say that. As needed, I give these checks as needed.
Q. As needed in terms of what?
A. Just maybe if I think that I

9704385 1089

want to give some money, I'll give money.

MR. ANDERSEN: Okay. Let's take a break.

(A brief recess was taken.)

BY MR. ANDERSEN:

Q. Mrs. Kilbanks, I'd like to ask you some questions about your financial situation.

First, how would you describe your financial situation?

A. I'm a very fortunate lady in that respect.

Q. Are you well-off?

A. Yes.

Q. I assume your late husband's estate provided for you?

A. Yes.

Q. Did you discuss financial matters with him?

A. With my husband?

Q. Yes.

A. Oh, yes.

Q. How involved did you get?

A. Well, I'm his wife. Normal discussion, I would say, between husband and

2704385100

wife regarding, you know, financial things.
Q. As a couple, did the two of you work with a financial planner, tax consultant, an estate advisor, that sort of thing?
A. Well, we have an accountant and a lawyer. That's about it.
Q. Um-hum.
A. My husband was quite knowledgeable along those financial lines and what to do.
Q. How was the estate generally distributed?
MR. SMITH: If you know.
A. How was it generally -- well, myself and my three children.
Q. Did your husband provide bequests to your son and daughters?
A. Yes.
Q. What were the bequests?
A. Are you looking for a specific sum?
Q. Whatever you recall.
A. Well, I don't really think it's necessary to tell you that, am I correct?
MR. SMITH: Do you know?

2704385 1091

THE WITNESS: No, I don't really know. To go into the trust and everything I'd rather not.

Q. If you have an estimate.

MS. KLEIN: We're not here to try to invade your financial privacy. But if you could describe for us whether they were provided for in a trust with a distribution.

THE WITNESS: A trust and a distribution.

MS. KLEIN: With an annual distribution from this trust?

THE WITNESS: After his demise.

BY MR. ANDERSEN:

Q. Has the estate been fully distributed --

A. Yes.

Q. -- under the terms of the trust?

A. Oh, yes.

Q. Who are the trustees or trustee?

A. My son and myself.

Q. Who are the beneficiaries?

A. My daughters and my son and, of course, myself.

2704385 1092

Q. Can you describe your role as trustee or co-trustee?
A. Well, Bob and I together make decisions.
Q. What are those decisions based on?
A. Well, the -- based on -- now how do you mean that? Based on --
Q. What considerations --
A. What's provided in the trust?
Q. What considerations in distributing the trust do you take into account?
MR. SMITH: Do you understand?
THE WITNESS: No.
Q. As co-trustee?
A. I don't mean to be dumb.
Q. That's quite all right. Complex matters we're talking about here. What are your duties as co-trustee?
A. Well, I would have to co-sign whenever necessary for any moving around of money so to speak.
Q. Okay. Do you feel that you have sufficient assets for your lifetime needs?

270438510993

A. Yes.
Q. How did you determine that?
A. Well, I just know. I just know about having a lawyer and discussing things with a lawyer and setting it up.
Q. Any other advisors?
A. No.
Q. Just the lawyer?
A. Just the lawyer.
Q. Can you name the lawyer?
A. Yes, Bob Glazer.
(Discussion held off the record.)
MR. ANDERSEN: Back on the record.
Q. What factors do you take into account when making a distribution from the trust?
MR. SMITH: Do you understand?
Q. What factors are taken into consideration?
A. I don't know if I know what factors.
Q. I guess this goes back --
A. I mean the trust is already set

2704385 10924

up. There isn't much -- we abide by what the trust says.

Q. What are your obligations?

MR. SMITH: As trustee?

Q. What is your role as trustee?

A. Well, it's just co-sign when necessary, as I said.

Q. Do you have any authority over the amounts that you're signing to make any decisions as far as what is actually distributed?

A. No. I abide by the trust.

Q. When you are determining your distributions -- I'm talking about your general divestment now.

MR. SMITH: Not the trust.

Q. Not the trust, but it can be related. I'll ask my question. If you have -- if you misunderstand, then I can rephrase it.

Did you or your attorney make calculations as to your life expectancy or how much you needed in the way of assets in maintaining your way of life?

MR. SMITH: Do you

2704385 1095

understand?
A. Yes. But I really never had any lengthy discussion with him about this. My husband had a specific estate the way he wanted it set up. It was set up and that was it.
Q. How about the way that you divest your estate now. How did you come about planning for that?
A. How did I come about planning -- say that carefully.
Q. Did you talk to any advisors or did you --
A. Just the original attorney that I mentioned, you know.
Q. Do you have a plan for divesting your estate?
A. Yes, it's all set up for me. It's all set up.
MR. SMITH: I think she misunderstands.
MR. ANDERSEN: Let's get away from the trust -- your trust.
MR. SMITH: We're talking about your assets.

9704385 1096

Q. We're talking about your assets. Do you have any kind of plan for divesting your estate?
A. Do I have a plan?
Q. Um-hum.
A. Well, I guess you'd call it a plan.
Q. You can call it what you want.
A. I guess you call it a plan. It's there, the assets are there. So I do with it what I want to.
Q. Well, this plan or whatever you want to call it, can you describe it?
MR. SMITH: As it relates to the divesting?
MR. ANDERSEN: Exactly.
MR. SMITH: Do you understand?
THE WITNESS: Do it again.
MR. SMITH: What is your plan with regards to divesting your estate, that's what he's referring to.
A. Oh, oh, well, I give often to my children.
Q. How did you come up with that

270438510097

plan?
A. Because I wanted to give them money while I'm still living and also to -- so they don't have to pay so much inheritance tax when I'm not here. I want them to enjoy what I have right now.
Q. When did you come up with this plan?
A. I have been doing that for many, many years.
Q. Did anyone advise you?
A. No, no.
Q. Your son?
A. No.
Q. Did you discuss it with him?
A. No.
Q. Let's get into this, your reasons for distribution. Have you generally followed the same conditions, generally followed this divestment plan since you began divesting your estate?
A. Yes.
Q. And how so? We can go back to when you first started making gifts or divestment of your estate.

270438510998

A. You want it in years?
Q. Sure.
A. Eight years maybe.
Q. And where does your son fit into that plan?
A. I gift give to him.
Q. Carol?
A. Yes.
Q. Susan?
A. Um-hum.
Q. Anyone else?
A. Nope.
Q. Ms. Kilbanks, are you generally aware of how tax law affects your gift giving practices?
A. Yes.
Q. What is your understanding?
A. $600,000 is a limit.
Q. When did you become aware of that?
A. A few years ago.
Q. Was this after you started divesting your estate?
A. I don't remember that -- at that point.

2704385099

Q. Do you remember how you found out about the tax law?
A. Probably through the lawyer.
Q. Same attorney that you mentioned earlier?
A. Um-hum.
Q. Has this knowledge of tax considerations affected your gift giving practices?
A. No.
Q. Are you aware of that $10,000 annual gift exemption?
A. Yes.
Q. Have you taken advantage of it?
A. No.
Q. Why not?
A. I wasn't aware of it.
Q. When did you become aware of it?
A. Just recently.
Q. How recently?
A. Within the last year or two.
Q. Have you -- has that been one of your considerations after you became aware of it?
A. No, not really.

2704385 1100

Q. What other factors have you taken into account in gift giving over the years or since you started?
A. Now, what do you mean what other factors?
Q. You talked about the $600,000 estate exemption. Can we just go over the -- all the reasons -- all the factors that you take into account in giving gifts, what amount, when, how frequently and so forth?
A. Well, as I said before, to divest my estate and avoid inheritance taxes. And I want my children to, you know, have it now while I'm living.
Q. Do you have any plan for this year to -- particular plan?
A. Give them more gifts.
Q. Are they aware of it?
A. We really don't discuss it. I'm sure -- I'm sure they think it will be coming at some point.
Q. Has any of your past gift giving to your son been prompted by him communicating his needs to you?
A. No, I just give it.

270438511101

Q. So what has been your main consideration when you do give him a gift?
A. My main consideration?
Q. Um-hum.
A. Well, yes.
Q. What consideration?
A. Well, he's here in Easton, and I give him the gifts, you know, as needed, that's all.
Q. Can you describe what you mean by as needed?
A. No, just give him the money, just give him a check.
Q. Has one of the considerations of your gift giving over the past few years been your son's decision to run for congress?
A. Say that again.
Q. Going back to the considerations of your gift giving, has one of those conversations in giving the gifts been his decision to run for congress?
A. No.
Q. He never suggested amounts to you that he might need to run for congress?
A. No.

2704385 1102

Q. Ever suggest amounts that he might need in other respects?
A. No.
Q. He never asked you for any particular amounts?
A. Once in a while there might be something like a phone bill.
(J. Kilbanks Exhibits Number 3 was marked for identification.)
MR. ANDERSEN: For the record, these are checks paid to the order of Robert Kilbanks signed by Jacqueline M. Kilbanks.
Q. Mrs. Kilbanks, are these all the checks that you've written to your son since 1990?
MR. SMITH: Look at them all.
MR. ANDERSEN: For the record, these checks have been produced by Mrs. Kilbanks to us.
A. They are accurate.
Q. So, Mrs. Kilbanks, are these all of the checks you've written to your son since 1990?

2704385110 3

A. Yes.
Q. Could you please walk us through step by step how these checks came to be issued to your son as a general rule, whose idea or whose initiation?
A. It's my idea. I don't have a general rule.
Q. How would you approach him? Did you just hand him the checks out of the blue?
A. Yeah, I would say so.
Q. If this refreshes your memory, you can look back at some of them.
MS. KLEIN: We're trying to establish a general practice, and we'd be glad to go through and ask about specific ones.
THE WITNESS: Well, there have been occasions when there's been need.
Q. What occasions?
A. Well, phone bills, you know.
Q. Did he ask you?
A. No, he never asked.
Q. Did you hand them to him physically or did you mail them?
A. No, I handed them to him

2704385-1104

physically.
Q. So did you tell him you were going to give them to him beforehand?
A. Maybe, not always.
Q. Did he come to see you for that specific purpose?
A. No.
Q. How often did you tell him beforehand that you were writing out the check to him?
A. A couple days.
Q. How so -- how did you talk to him?
A. Just tell him to come up, I have a check for him.
Q. Did this happen as a general rule, is this the way it happened?
A. Yes.
Q. Did you actually call him up?
A. Yeah, I would say so, um-hum.
Q. For the purpose of telling him --
A. Giving, yes.
Q. Did he ever call you?
A. No.

9704385105

Q. When you talked to him beforehand, what did you say?
A. I have a check for you.
Q. Did you tell him the amount of the check?
A. No.
Q. Did you tell him why?
A. No. It's just a normal thing I do.
Q. Did he make any comments during those conversations?
A. Thank you, and probably some other nice things.
Q. And then he would come to your house and pick up the check in your presence?
A. Um-hum.
Q. How was the amount of the checks arrived at?
A. It's just my doing.
Q. Any particular --
A. I have no rational way of explaining why I give the amounts.
Q. How is the timing determined?
A. There really isn't any timing.
Q. Did you tell him beforehand how

270438511106

much you were going to write them for?
A. No.
Q. Did you ask him what amount you should write them for?
A. No.
Q. Did he -- did he tell you how much to write them for?
A. No.
Q. Were they based on -- were the amounts based on his needs at the time?
A. No.
Q. Did you ever write the checks -- did you ever write the checks in response to a request from him?
A. No.
Q. Did you ever write the checks in response to a need you were aware of his?
A. No.
Q. Did he ever show you any bills or expenses that he needed paid?
A. No.
Q. Mrs. Kilbanks, it appears that you first started writing the checks in 1990. Why 1990?
A. I guess maybe that was the time

2704385 1107

I decided to divest my estate and why not divest the money while I'm still here.

Q. What discussions did you have with him concerning that in 1990?

A. I can't -- probably just said I'm going to divest -- start divesting my estate, and I'm going to surprise you and give you checks occasionally.

Q. And what did he say?

A. How nice.

Q. Do you remember how many checks you wrote to him that year?

A. No, I'd have to look on my records here.

Q. Take your time.

A. What year are we in?

Q. 1990, the first year that you said you started giving him the gifts.

A. Yeah, right here.

2704385108

DUE TO THEIR CONTENT, PAGES 77-91 HAVE BEEN DELETED

2704385109

A.
Q.
MR. SMITH: 1.
Q. Exhibit 1. Please turn to page six. Okay. Previously I had you read the first paragraph -- the first underlined paragraph in the third column over. Can you read aloud the second paragraph?
A. Maybe in the back of my mind I probably had thought that, Jacqueline Kilbanks, who contributed $1,000 to her sons campaign last summer said yesterday from the Easton home they share.
Q. Is that an accurate quote?
A. No.
Q. What did you say?
A. Well, Mr. Martin of the Morning Call, he just misinterpreted everything I said. He talked over me in conversation with him.
Q. Do you see where the first part of that is in quotes, the very first part?
A. Yes.
Q. You never actually said those words?

2704385111O

A. No.
Q. What did you say?
A. I said when you give someone -- this John Martin evidently wasn't listening to the fact that when you give someone a gift, you give it to them. You don't know what they do it with it. It's theirs.
Q. So it isn't true that --
A. No, that statement is not true.
Q. What was your reaction to it? Did you read it in the paper?
A. Yes.
Q. What was your reaction?
A. I said that I didn't say that.
Q. Did you do anything about it?
A. No.
Q. Did you try to clear it up with anybody?
A. No.
Q. Did you talk to your son about it?
A. Oh, yes.
Q. And what did you tell him?
A. I just said that's not true, Bob.

270438511

Q. Did you tell him what you actually said?
A. Yes.
Q. And what did you actually say?
A. That when you give someone a gift, you don't know, you know -- you give it to them. You don't know what they are going to do with it. It's theirs to do with what they want.
Q. You didn't call up the newspaper to complain?
A. No.
Q. At that time were you sharing a house with Bob?
A. Yes. And that was because where he lives -- he lives along the river. And that was flooded out January 25th. And he moved in with me for quite a few months until we remodeled and put the place back in shape.
Q. Can you give me approximate dates when he moved in?
A. The flood was January 25th and we had to remove all the furniture so January 25th.
Q. Okay. So we're talking -- what

2704385 1112

year are we talking about, just to be clear?
A. 1996.
MS. KLEIN: When did he move back into his house?
THE WITNESS: He moved back later July -- late in July.
Q. Any other times that he shared the house with you prior to that time?
A. No, not -- back in -- when his father got sick, '83.
Q. Okay. Any other time, not necessarily living in the house but working out of it, sharing space there?
A. No.

2704385111 3

DUE TO THEIR CONTENT, PAGES 96-99 HAVE BEEN DELETED

9704385111114

270438511115

MS. KLEIN: 4.

Q. If that helps refresh your memory for the gifts that you gave to your son in that year.

How much did you give your son in 1995?

A. $55,396.

Q. Why that amount?

A. I have no idea, just giving.

Q. Did you give any to your daughters that year?

A. No.
Q. Anything to Susan?
A. No. The reason I'm hesitating is that I often pay for my daughter in California, her airfare. I know that sort of things, but there's no record of that here anyplace, you know.
Q. Is that the only time you -- did you make any gifts to her?
A. Christmas gifts. I give them money, checks for Christmastime, birthdays and things like that.
Q. Do you remember --
A. I don't know if that's a consequence or that sort of thing.
Q. Do you remember the amounts for 1995?
A. No, I'd have to go look that up.
Q. In 1996, how much did you give your son? Now this is a little bit confusing. If it helps to refresh your memory, that information on two exhibits, the check exhibit that you can you look at which is Exhibit Number 3 and if you want -- please turn to page 23 to 26 for the record. These were the

2704385111116

documents produced for that year, checks for that year.

MS. KLEIN: And what total did you come up when you add them?

MR. ANDERSEN: I have to add these. And look at the exhibit -- the bank statement exhibit which is Exhibit Number 5, pages nine to 11.

THE WITNESS: This?

MR. SMITH: Yes.

THE WITNESS: What page?

MR. SMITH: Nine to eleven.

BY MR. ANDERSEN:

Q. Because it was just last year and because of the documents produced, we have them on two different exhibits.

Now, when we added the gifts from those two documents together representing gifts you gave in 1996, I came up with $61,100. I just want to know if that sounds like an accurate estimate to you?

A. Let's see. You don't have to use that. Yes, okay. Yes.

Q. Why $61,000?

2704385 1117

A. No specific reason.
Q. Your son never expressed any need to you?
A. No.
Q. Why not to the daughters?
A. I just didn't.
Q. Excuse me. Did you give any to your daughters that year.
A. No.
Q. Okay.
A. The only thing I would give to the daughters would be airfare or birthday gifts.
Q. Okay. Can you look at Exhibit Number 5, the bank statements and look on page 11?
A. Okay.
Q. Do you see -- does that refresh your memory as far as checks you wrote to Carol?
A. Yes.
Q. What -- can you describe the check that you wrote her, the amount?
A. $1,000.
Q. On what date?

270438511 8

A. September 20th.
Q. And what was that for?
A. Just a gift.
Q. Was that for airfare?
A. No, not particularly. I don't think so. September, no. She wasn't around in September. Just the gift.
Q. Do you remember the total amounts that you gave her for 1996?
A. Maybe $1500, plus maybe birthday money.
Q. When you look a few lines down, I know it's kind of hard to read, but do you see that you wrote a check to Bob on September 24th?
A. Yes.
Q. And how much was that amount?
A. $2,000.
Q. So is it correct that you wrote a check to Bob on September 24th, 1996 in the amount of $2,000 but only $1,000 to Carol on September 20th?
A. I don't know. No specific --
Q. No reason?
A. No.

2704385119

Q. Did they have different needs at that time?
A. No, not that I would know.
Q. Did they make any requests?
A. No.
Q. Ms. Kilbanks, I guess what I'm having trouble understanding, why if your purpose was to divest your estate, why you didn't give more to the others earlier or to your other children?
A. Well, I'm not finished divesting yet. And my daughters -- I felt they maybe they didn't -- maybe didn't need it yet. So I would rather wait until they come upon hard times.
Q. But did your -- are you saying that your son did need it?
A. No. No, I'm not saying that.
Q. Did -- but you're saying that -- did -- why didn't you give it to your daughters again? Let's try to be clear on this.

In other words, why didn't you give the same amounts to your daughters as you did to Bob?

270438511 20

A. Good question. I really don't have any specific reason. Maybe I felt as though they are doing all right so I'll just wait until they are not doing all right or they might need it.
Q. They as in?
A. Business-wise in their work.
Q. When you say they, you're referring to your daughters?
A. Yes.
Q. How is Bob doing -- if they were doing all right, how was Bob doing?
A. All right.
Q. Was he not doing quite as all right?
A. I would say, yes, not quite as all right.
Q. Did that influence your gift giving to him?
A. No, not really.
Q. What basis are you saying that he was -- to use these vague terms, not quite as good as your daughters?
A. What are you asking me again?
Q. Earlier we said -- you said that

2704385121

he was not doing quite as all right as your daughters. I'm saying why do you say that?

A. Well, there probably was a need, that I felt that he needed a little bit more money --

Q. Um-hum.

A. -- than they would need.

Q. Need based on what?

A. Just need of -- needing it. We own properties, and they need some support.

Q. But what's the basis for your conclusion that he needed more?

A. I don't have any basis.

Q. Why do you say that? I mean, can you describe the differences between his situation and your daughters' situation that would cause you --

A. No. Well, not doing as well.

Q. So what does that mean?

A. Not doing as well financially.

Q. Why not?

A. Well, why not. The way the real estate business is ups and downs.

Q. What else?

A. That's about it.

270438511 22

Q. So his business wasn't doing well in your estimation?
A. Well, what I know is what we said, I don't do too much discussing in that respect.
Q. Did that influence your gift giving?
A. That I felt as though he -- no.
Q. But yet it didn't -- did it influence your gift giving for your daughters, the fact that they were doing better than he was?
A. Yes, yeah.
Q. But it didn't influence you as far as your gift giving to him?
A. No.

MR. ANDERSEN: Let's take a break.

(A brief recess was taken.)

BY MR. ANDERSEN:

Q. Mrs. Kilbanks, do you have any particular amount in mind that you were planning on giving your son this year?
A. No, it will be random gifting as I have been doing all along.

2704385123

Q. And you will give him some, is that correct?
A. Oh, sure. I will continue to do what I'm doing.
Q. So it's over zero but less than -- could you set an upper limit?
A. No, I can't do that.
Q. And what about your daughters?
A. If I feel as though they need it, I'll give them a check.
Q. When you say you feel as though they would need it, would you ask them?
A. Maybe not.
Q. Would they tell you?
A. I might be spontaneous.

2704385124

Q. There's just one other area and we're talking about maybe a few checks I'd like to go over. I appreciate you so far for your patience and cooperation. This shouldn't take long at all. It would be Exhibit Number 3.

Now, you may also refer to the bank statement exhibit from the documents that were produced. Some were shown on the bank statements that were not produced -- the copies of the checks were not produced to you.

Look at the bank statements, which are Exhibit 5, and look at page one and two.

2704385112 5

DUE TO THEIR CONTENT, PAGES 111-112 HAVE BEEN DELETED

27043851126

27043851127

Q. Let's look at the checks exhibit, which is Exhibit Number 3, and turn to page 18 and look at the top check.

And once you do that, can you tell us the amount and date?

A. $10,000.

Q. And the date?

A. June 28th, 1995.

Q. And that was to your son?

A. Right.

Q. What was the purpose of that check?

A. Just a gift.

Q. Do you recall why in particular you would write out a check for $10,000?
A. No.
Q. Now, is the check right below that also a gift?
A. Yes.
Q. Now, why would the top one be for $10,000 and the next one be for $5,396?
A. Could be I added in money to pay for a phone bill for something.
Q. By the way, what is the date of that?
A. July 19th, 1995.
Q. And again, is that the amount that you gave him as a gift?
A. $5,396.
Q. And why for example not 6,000?
A. Probably maybe that included, like I said, a phone bill or something.
Q. A phone bill, what else?
A. Maybe electric bill or something.
Q. How did you know about those?
A. Must have mentioned it.
Q. Who mentioned it?

2704385 1128

A. Bob.
Q. Did he show you the bill?
A. Yes.
Q. How did -- did he ask for that amount?
A. For the phone bill.
Q. Well, let's talk about the size of the check.
A. I can't remember.
Q. Let's talk about that check. Did he ask for that amount of check?
A. No, no.
Q. How did you arrive at that amount?
A. I don't -- see, I can't -- I wouldn't know. It must have been maybe another expense that I added in there.
Q. So do you remember if it was a phone bill or are you just guessing?
A. Just guessing.
Q. Any other type of expenses?
A. No.
Q. I'm trying to think for $5,396, that seems like it might be more than a phone bill or --

2704385129

A. It could have been.
Q. Does that jog your memory that it's such for a specific amount?
A. No.
Q. You don't know what was happening in his life at that time that he would need that. What about the $10,000? You don't know what was happening in his life at that time?
A. No.
Q. For example, were the checks previous to that, and you can you look on the previous pages and the later pages -- why is that $10,000 so much more than the other checks?
A. I have no specific reason for giving those amounts. It's just what I do.
Q. But at least for some of them are you saying that it was based on his needs?
A. No.
Q. What about the phone bill and the other expenses you mentioned?
A. I'm just saying possibly.
Q. Now, the biggest check you ever wrote, according to what was produced, was a

270438511 30

check for $20,000. And before I ask you questions about that, I believe it's located on page 25 of that same exhibit.

Does that look familiar?

A. Um-hum.

Q. What date was that written?

A. February 26th, 1996.

Q. And again, what amount?

A. $20,000.

Q. Wh did you write that check?

A. Just gave him that amount. I could have had a windfall maybe. I can't remember that far back.

Q. You could have had a windfall?

A. Yeah, I could have had a windfall.

Q. What windfall?

A. I could have won like a lottery or something.

Q. Was that based on anything that was happening in his life?

A. No.

Q. Do you remember what was happening in his life at that time, in general? Was he working?

270438511311

A. Yeah.
Q. What about the campaign, was he involved in the campaign? Again, we're talking February 26.
A. Yeah, that's campaign time.
Q. Did you -- did that fact influence your writing of the check?
A. No.
Q. Well, according to the checks produced, it appears that's twice as big as any other check that you wrote. I was hoping that it might refresh your memory as to why you would you have written it.
A. No.
Q. No?
A. No.
Q. Did he use it to pay his expenses?
A. I wouldn't know.
Q. He didn't talk about that?
A. No.
Q. You didn't ask?
A. No. I'm a trusting mother.
Q. Okay. Now, turn to page 26 and you see the check in the middle. Can you tell

270438511 32

us the date and amount of that?
A. March 19th, 1996 for $10,000.
Q. Why did you write that check?
A. Just wrote it.
Q. No reason?
A. No, no reason behind anything, just gave it to him.
Q. Did you -- did you write it based on his needs or anything that was happening in his life?
A. No.
Q. Was it purely to divest your estate?
A. Sure. Sure. That's all part of it, absolutely.
Q. Why $10,000. Why not like the previous amounts? Why not -- sorry. I see checks before that are for $2,000 and then $10,000 and $2,000 all in the same month. Any particular --
A. That's just the way I do it.
Q. Why spread them out over the month like that?
A. No specific reason.
Q. Okay. There was another big

270438511 3

check you wrote on April 3rd, 1996 in the amount of $11,000. If you need to look at that check -- we actually don't have a copy of the check, but it's in the bank statements Exhibit Number 5 on page nine.

And again, it looks like it was highlighted before it was copied.

A. It looks like a five this way.

Q. Do you see where I'm referring to?

A. Yes.

Q. Does that refresh your memory? Did you write a check in that amount?

A. Yes.

Q. What amount was that?

A. Looks like $11,000.

Q. And can you see the date or what date did you write it on?

A. April -- I can't read that.

Q. Was it in April?

A. Yes.

Q. We don't need to get specific about the date.

A. Yes.

Q. What was that check for?

2704385 11334

A. Just another gift.
Q. Were you aware of anything going on in his life at the time?
A. No.
Q. Did he -- did he tell you anything about needing money?
A. No.
Q. Was he involved in the election at that time that you wrote it?
A. This is what year, yes.
Q. Okay. Now, I can't help but notice a big gap between May 6th, 1996 and September 24th, 1996 where you did not write any checks to your son. It's more what's not there than what is there.

Do you recall a stretch between May and September of last year where you didn't write any checks?
A. September? (Witness shakes head.)
Q. Do you know why you didn't -- first of all, do you remember writing any checks?
A. No.
Q. There were none produced.

270438511 35

A. Okay. So I'm sure there wasn't any.
Q. Why didn't you?
A. I don't know why.
Q. Was it because of the articles appearing in the paper at that time? In other words, April and May of 1996?
A. No.
Q. Did you decide to stop writing them yourself?
A. Yes, for that period.
Q. Yes?
A. Yes.
Q. Bob didn't ask you to stop writing them?
A. No.
Q. Why, for example, in May and previous months is there a pattern of every week or every two weeks of checks and then all of a sudden after May you haven't written any checks until September, do you remember that?
A. No.
Q. I was hoping since -- go ahead.
A. Well, there's never really any pattern. I just do it. I use the word -- I

270438511336

just never -- I just give the check.
Q. I don't know when we were talking about. I'm sorry to interrupt you.
A. When I feel like it.
Q. Anything else?
A. There's no pattern, like you say, like every week.
Q. I realize --
A. But I don't know why the gap.
Q. When I was asking you questions about 1990, that was seven years ago, but this was just last year between May and September. So I was hoping that would be sooner in time and might refresh your memory. Any reason why you didn't write any checks between May and September?
A. No.
Q. Did you write any during that time to your daughters?
A. Maybe the usual birthday gifts or something like that.
Q. Was it -- by the way, when is Bob's birthday?
A. March 31st, 1952.
Q. Does -- did you ever give him

2704385 1137

any money during this time other than by writing checks? And during this time, I mean between 1990 and the present?

A. No.

Q. Ever give him any straight cash as opposed to checks?

A. $10 maybe. If we go out for lunch or something like that and he forgot to stop at the bank there might be one occasion like that.

Q. Any non-monetary items of value?

A. No.

Q. Earlier I think I asked you about your recent gifts. Let me see if you can remember a specific month. October of last year, this was -- to put it in context it was a month before the election.

A. Okay.

Q. Do you remember if you wrote him any checks during that time?

A. Not without looking at my -- at my records. What was produced? I just wouldn't remember.

Q. What we have only goes to September. That's why I'm asking these

270438511 8

questions.
A. I see. I don't remember. You're talking October?
Q. Last year.
A. Last year?
Q. Five months ago or whatever.
A. I can't say yes or no.
Q. Okay. Let's go to exhibit -- the checks exhibit, which is Exhibit 3, page 25. This is the last check I'm going to ask you about if it's any consolation. It's page 25, and it's the check at the bottom of the page.
A. March 1st, 1996.
Q. And what's the amount?
A. $2500.
Q. What did you write that check for?
A. That was the 911 Northampton Street, that's at the office building.
Q. What office building?
A. Kilbanks Company.
Q. So what does that mean in relation to the check?
A. That I probably paid for a bill

2704385139

down there.
Q. Do you remember the bill?
A. No.
Q. Did Bob ask you to pay it?
A. No.
Q. How did you know?
A. He must have mentioned it, of course, but he never asked for me to --
Q. So he did mention it and you offered to pay it?
A. Yes.
Q. What did he mention?
A. Outstanding bill, whatever.
Q. And he told you the amount?
A. Even then I too could have added some more to it.
Q. So what does that $2500 refer to?
A. Something at the office.
Q. The whole amount?
A. Not necessarily, not necessarily.
Q. But you don't remember how much went to the business expense?
A. No.

0270438511140

Q. Was the rest of it purely a gift --
A. Yes.
Q. -- rather than for an expense?
A. A mix and match.
MR. ANDERSEN: Mrs. Klein, do you have any questions to ask?
MS. KLEIN: I have two areas I want to clarify.
* * *
EXAMINATION
BY MS. KLEIN:
Q. Just to make sure in reference to the check that Mr. Andersen was just asking you about and you had suggested that could be for an business expense plus a gift, so a combination of an expense and a gift. And this may have -- is that a correct understanding of your testimony?
A. Yes.
Q. And is it correct in your earlier testimony I think there was testimony about a $5,386 check amount. It was an odd amount. And as I understand your testimony, it was that it had to have been a gift plus a

270438511

little added on to cover some sort of expense that may have been associated?

A. Um-hum.

Q. Second area that I wanted to ask you about was your -- the pattern on a per annual basis. I apologize for my voice.

2704385114 2

MR. ANDERSEN: Before we end this deposition, Mrs. Kilbanks, is there anything that you would like to add to any of your previous answers?

THE WITNESS: No.

MR. ANDERSEN: I was hoping that for the checks that you -- excuse me, for the gifts that you have paid to your son from the last one that was produced, which is, I believe, September 24th -- actually, it's on the bank statement exhibit -- in other words, all the checks from the date -- the last date that you've produced them to the present, if we could get copies of those?

MS. KLEIN: If there are any. There was that time period starting in October.

THE WITNESS: October '96?

MS. KLEIN: Right through the end of '96 just to finish off the year if you could.

THE WITNESS: All right

MS. KLEIN: Similarly, if you have any gift tax return for 1996 so that we can just finish off the year, that would be

270438514 3

helpful.

MR. SMITH: Of course, that wouldn't come for several months.

MR. ANDERSEN: Okay.

MS. KLEIN: There is one last question that I'm always embarrassed to have to ask. But as a witness for the government investigation, you're entitled -- we have to issue a witness fee check. I believe the amount of the check is $40 and they add in for your mileage.

So we have to go through the agony of asking people to estimate what their mileage was to appear here today from your home in Easton?

THE WITNESS: Mileage?

MS. KLEIN: A rough estimate will do.

THE WITNESS: I'm in Allentown, ten miles.

MS. KLEIN: Each way.

THE WITNESS: Each way.

MR. ANDERSEN: I want to thank you for your testimony, and we'll go off the record.

270485114

(Deposition concluded.)

2704385 11 45

2704385 1146

12th day of December, 1997

I hereby certify that the evidence and proceedings are contained fully and accurately in the notes taken by me of the testimony of the within witness who was duly sworn by me, and that this is a correct transcript of the same.

Melissa L. Oswald
Registered Professional Reporter

The foregoing certification does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.

March 26, 1996

I hereby certify that I have read the foregoing transcript of my testimony taken at the within deposition and find it to be true and correct.

Jacqueline Kilbanks

JACQUELINE KILBANKS

2704385 1147

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4353

DATE FILMED 12-16-97 CAMERA NO. 2

CAMERAMAN JMD

27043851148